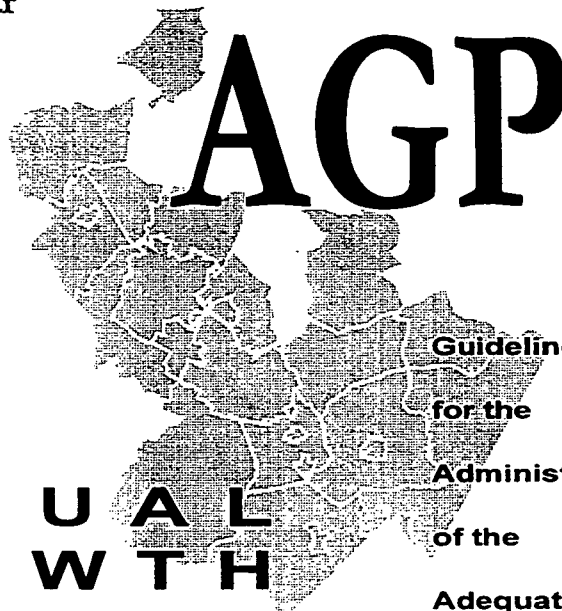


Fiscal Year  
2000

**A N N U A L  
G R O W T H  
P O L I C Y**



**Guidelines  
for the  
Administration  
of the  
Adequate Public  
Facilities  
Ordinance and  
Growth  
Capacity  
Ceilings for  
Montgomery  
County,  
Maryland for  
Fiscal Year  
2000**

**FY 2000 ANNUAL GROWTH POLICY**

for

**MONTGOMERY COUNTY, MARYLAND**

Including  
Guidelines for the Administration  
of the  
Adequate Public Facilities Ordinances  
and  
Growth Capacity Ceilings for FY 2000

Adopted by the Montgomery County Council

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
Adopted June 29, 1999

## **ABSTRACT**

**TITLE:** FY 2000 Annual Growth Policy

**AUTHOR:** The County Council of Montgomery County, Maryland

**SUBJECT:** Growth Capacity Ceilings and Guidelines for the Administration of the Adequate Public Facilities Ordinance and Growth Capacity Ceilings for Montgomery County, Maryland for Fiscal Year 2000

**PLANNING AGENCY:** The Maryland-National Capital Park and Planning Commission

**SOURCE OF COPIES:** The Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4700

**DATE:** Adopted July 15, 1998; Amended April 6, 1999

**NUMBER OF PAGES:** 100

**ABSTRACT:** Montgomery County Code Section 33A-15 establishes the process by which the Montgomery County Council provides guidance for the management of growth. The Code requires the Council to adopt an Annual Growth Policy Ceiling Element by July 15 of each year to be effective throughout the next fiscal year, and requires that no later than November 1 of each odd-number year, the County Council must adopt an AGP Policy Element to be effective until until November 1 of the next odd-numbered year or until amended by the Council.

In accordance with this law, the Montgomery County Council adopted this resolution which constitutes the entire Annual Growth Policy for FY 2000 effective July 15, 1999.

This report also contains, as an appendix, explanatory materials including an overview of the Annual Growth Policy, definitions of key variables, technical notes, and the texts of the adequate public facilities ordinance and the legislation establishing the AGP.

## **ELECTED AND APPOINTED OFFICIALS**

### **COUNTY COUNCIL**

Isiah Leggett, President  
Michael L. Subin, Vice-President  
Phil Andrews  
Derick P. Berlage  
Nancy Dacek  
Blair Ewing  
Betty Ann Krahne  
Marilyn J. Praisner  
Steven Silverman

### **COUNTY EXECUTIVE**

Douglas M. Duncan

## **THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**

Elizabeth M. Hewlett, *Chairman*  
William H. Hussmann, *Vice Chair*

### **Montgomery County Planning Board**

William H. Hussmann, *Chairman*  
Arthur Holmes, Jr., *Vice Chair*  
Allison Bryant  
Wendy C. Perdue  
Meredith K. Wellington

### **Prince George's County Planning Board**

Elizabeth M. Hewlett, *Chairman*  
Zola E. Boone  
James M. Brown  
Regina J. McNeill

# **FY 2000 ANNUAL GROWTH POLICY**

## **Table of Contents**

I. Guidelines for the Administration of the Adequate Public Facilities Ordinance.....	2
A. Guidelines for Transportation Facilities .....	4
1. Policy Area Transportation Review .....	4
a. Policy Areas - Boundaries and Definitions .....	4
b. Components of Policy Area Transportation Review.....	4
c. Determination of Staging Ceilings.....	5
d. Silver Spring CBD Policy Area Ceiling.....	7
e. Special Ceiling Allocation for Affordable Housing.....	8
f. Full Cost Developer Participation .....	10
g. Development District Participation .....	11
h. Ceiling Flexibility - De Minimis Impacts .....	13
i. Amendment of Policy Ceilings .....	14
j. Allocation of Staging Ceiling to Preliminary Plans of Subdivision .....	14
2. Local Area Transportation Review (LATR).....	16
3. Alternative Review Procedures.....	18
a. Metro Station Policy Areas .....	18
b. Expedited Development Approval .....	18
c. Limited Residential Development.....	20
d. Development Capacity Transferability - Silver Spring CBD.....	21
B. Guidelines for Public School Facilities .....	22
1. Geographic Area .....	22
2. School Capacity Measure .....	23
3. Grade Levels .....	23
4. Determination of Adequacy .....	23
5. Affordable Housing .....	23
C. Guidelines for Water and Sewerage Facilities.....	23
D. Guidelines for Police, Fire and Health Services .....	24
E. Guidelines for Resubdivisions .....	24
II. Timely Adequate Public Facilities Determination and Local Area Transportation Review under Chapter 8 - Buildings.....	25
A. General .....	25
B. Traffic Mitigation Goals .....	25
III. Issues to be Addressed in the Future .....	26

## List of Attachments

Table 1: FY99 Transportation Staging Ceilings - Housing .....	27
Table 2: FY99 Transportation Staging Ceilings - Employment .....	28
Map 1: Montgomery County Annual Growth Policy Areas .....	29
Table 3: Elementary Schools by High School Cluster .....	30
Table 4: Middle Schools by High School Cluster .....	31
Table 5: High Schools by Cluster .....	32
Map 2: Montgomery County Public Schools High School Clusters .....	33
Table 6: Factors Used in Calculating Total Transportation Level of Service .....	34
Table 7: LATR Standards by Policy Area .....	35

<b>Appendix: Montgomery County's Annual Growth Policy .....</b>	<b>36</b>
I. Overview of the Annual Growth Policy .....	37
II. Glossary and Definitions of Key Variables .....	44
III. Technical Notes on Policy Area Transportation Review .....	51
IV. Technical Notes on Local Area Transportation Review .....	55
V. Summary Guide to AGP Approval Procedures .....	58
VI. Text of the Adequate Public Facilities Ordinance .....	70
VII. Text of the Annual Growth Policy Legislation .....	76

# Introduction to the Adequate Public Facilities Ordinance and the Annual Growth Policy

The Adequate Public Facilities Ordinance (APFO) and Annual Growth Policy (AGP) are two of the most recognizable planning terms in Montgomery County. They are also probably two of the least understood. This introduction will provide a short history and overview of both these programs.

Although commonly referred to as a separate ordinance, the APFO is actually part of the subdivision regulations, Section 50-35 (k) of the County Code. It was adopted by the County Council in 1973 with the goal of synchronizing development with the availability of public facilities needed to support that development. The introductory sentence states, "A preliminary plan of subdivision must not be approved unless the Planning Board determines that public facilities will be adequate to support and service the area of the proposed subdivision."

For the following 13 years, it was the responsibility of the Planning Board to define adequate public facilities, and it developed a series of reports and guidelines to do that. Then, during the building boom of the mid 1980s, the Council became concerned that too much development was being approved. After several proposals for moratoria or caps on building permits were rejected, the Council, as a compromise, enacted legislation under which the Council each year adopts an Annual Growth Policy (AGP) for the County. The AGP is used by the Council to direct the Planning Board's administration of the Adequate Public Facilities Ordinance.

It must be stressed that the APFO and the AGP have nothing to do with the location, amount, type or mix of development. These issues are dealt with in the County's General Plan, master plans, and sector plans. The APFO and AGP affect only the timing of development to ensure that it is matched with the availability of public facilities.

## *Facilities Tested for Adequacy*

Section 50-35 (k) requires the Planning Board to test new subdivisions for the following public facilities: transportation, schools, water and sewage facilities, and police, fire and health services. For the past 15 years, transportation has been the only factor limiting new subdivision approvals. For this reason, it is discussed separately below.

## *The School Adequacy Test*

The guidelines used to evaluate school adequacy incorporate MCPS enrollment projections, existing capacities of schools and any additional capacity (additions and new schools) that is programmed. The school system's 21 high school clusters are the geographic areas evaluated each year in the school test. Elementary, middle, and high school capacities in each cluster are evaluated separately in the AGP. Each level has 10 percent additional capacity factored in above the MCPS program capacity for the schools. This is done to recognize the potential for non-capital solutions such as boundary changes and short-term use of relocatable classrooms to accommodate a limited amount of over utilization. The methodology also considers that space available in adjacent clusters may be factored in for clusters that otherwise would be in deficit.

The AGP test for schools looks four years ahead in its evaluation of facility capacities. This is the same time period used for evaluating road capacities. The four-year period represents the average length

of time it will take a development plan to proceed through the governmental and construction phases to occupancy and, hence, the generation of additional students (or traffic on the roads).

The AGP school evaluation process enables the County Council to link the effects of enrollment trends and capital projects to decisions on whether or not to allow approval of additional residential subdivisions in the coming year. Each year, the new MCPS enrollment forecast and County Council adopted capital improvements program are factored into the evaluation of facility space four years in the future. By July 15 of each year, the County Council must adopt the AGP for the subsequent fiscal year. The results of the AGP schools test direct the Montgomery County Planning Board to either allow or not allow subdivision approvals in the 21 high school cluster areas during that fiscal year. To date, no school cluster has been closed to subdivision approvals based on inadequate school capacity.

#### *The Water and Sewerage Facilities Test*

Water and sewerage facilities are considered adequate if the property being subdivided is in category 1, 2 or 3 (service planned within two years) in the County's Ten Year Water and Sewer Plan. Police, fire and health facilities are assumed adequate unless the appropriate agency identifies a problem with a particular subdivision. This has never happened to date.

#### *The Transportation Facilities Adequacy Test*

The transportation test is administered on a policy area and a local area basis. For Policy Area Transportation Review, the County is divided into 25 policy areas plus the cities of Rockville and Gaithersburg. For each policy area, the AGP calculates the amount of development (expressed in jobs and housing units) that can be supported by the existing and programmed (first four years of the CIP) transportation network. This maximum amount of development that can be approved by the Planning Board during the following year is called the policy area's staging ceiling, and is adopted each July by the County Council.

If the Planning Board can approve additional development in an area (that is, when the staging ceiling has not yet been reached), the area is said to have positive net remaining capacity. If more development has been approved than can be supported by a policy area's transportation network (that is, the staging ceiling has been exceeded), the area is said to have negative net remaining capacity, and is in moratorium for new subdivision approvals. Previously approved developments can still move forward.

The pipeline of approved developments is the list of development projects which have passed their AGP tests, but have not yet been constructed. These are currently more than 100,000 jobs and 30,000 housing units in the pipeline. The large number of jobs is a concern because most of these projects are not moving ahead for various reasons. Once a project is approved, it retains the "rights" to that capacity for 12 years, thus potentially putting the policy area in a moratorium and preventing projects from being approved.

New approvals can occur in policy areas that are otherwise in moratorium through several procedures. These are:

1. *The Special Ceiling Allocation for Affordable Housing*: permits a limited amount of housing to be approved if the project contains a significant affordable housing component.
2. *De Minimis Development*: projects generating five or fewer peak-hour automobile trips can be approved in moratorium areas.
3. *Developer Participation*: permits projects to be approved if the developer provides the needed transportation facilities or otherwise mitigates the trips from his project.

4. *Development Districts*: landowners may form development districts to finance the transportation improvements needed to pass AGP transportation tests.
5. *Alternative Review Procedure for Limited Residential Development*: allows residential development to meet any transportation test obligations by making payment, rather than by making the transportation improvements that would otherwise be required. Approvals are limited to 300 units per policy area, and 100 units per project, per fiscal year. Development approved under this procedure must receive all building permits within three years after the plats are recorded. This procedure is scheduled to sunset on October 31, 2001.
6. *Alternative Review Procedure for Metro Station Policy Areas*: allows development in the compact areas atop Metro stations to meet local (intersection) transportation test obligations by making a payment, rather than by making the intersection improvements that would otherwise be required.
7. *Alternative Review Procedure for Expedited Non-Residential Development Approval ("Pay-and-Go")*: allows non-residential development to meet any transportation test obligations by paying a tax, rather than by making the transportation improvements that would otherwise be required. Development approved under this procedure must record their plat(s) within two years of approval and receive all building permits within two years after the plats are recorded. This procedure is scheduled to sunset on October 31, 2001.

The FY 2000 adopted staging ceilings provide positive net remaining capacity in 21 policy areas for housing and 22 policy areas for jobs. As of July 15, 1999, there was remaining staging ceiling for 33,430 housing units and 24,434 jobs. Currently, six County policy areas have negative net remaining capacity for housing and four have negative net remaining capacity for jobs.

The second transportation test is called Local Area Transportation Review (LATR). Since the mid 1970s, the Planning Board has used LATR to determine if a proposed preliminary plan of subdivision will cause unacceptable local traffic congestion at nearby critical intersections. Local Area Transportation Review is required only for subdivisions which generate 50 or more peak hour automobile trips.

In administering LATR, the Planning Board must not approve a subdivision if it finds that an unacceptable peak hour level of service will result after taking into account existing and programmed roads and transit. If a proposed subdivision causes conditions at a nearby intersection to be worse than the standard, the applicant may make intersection improvements or provide trip reduction measures to bring the intersection back to the standard and gain preliminary plan approval. If the subdivision will affect an intersection or roadway for which congestion is already unacceptable, then the Planning Board may approve the subdivision only if it does not make the situation worse.

Intersection congestion is measured using a method called "critical lane volume," which is the number of vehicles which can move through an intersection's main left-turn, or "critical," lane in an hour.

Montgomery County's level of service standards for intersections vary by policy area. Like Policy Area Transportation Review, the LATR standards are based on the idea that less traffic congestion should be permitted in areas with lower transit service and usage and more traffic congestion should be allowed in areas with greater transit service and usage. For the rural policy areas, anything worse than 1450 CLV is unacceptable for LATR. For policy areas with the greatest level of transit service available, such as some Metro station policy areas, the LATR standard is 1800 CLV. Other policy areas fall somewhere between the two standards, depending on the area's level of transit and usage.

### ***How the AGP is Keeping Pace with Growth***

The Annual Growth Policy is concerned with the relationship between the provision of public facilities to support development and the pace of development. During periods of rapid development, the pace of construction can outpace the provision of public facilities, while during periods of slow growth, the reverse is true. In the first seven years of the 1990s, the County added new development capacity faster than it was used by new development. Even with the more recent increases in the pace of development, there is enough development approved under the AGP but not yet built to support at least 20 years of job growth and at least ten years of housing growth. In the majority of policy areas, there is more than enough transportation capacity to support meet the five year forecast for both jobs and housing for that area.

### ***The Annual Growth Policy for Fiscal Year 1999***

This document contains the County Council-adopted resolution that comprises the entire Annual Growth Policy for Fiscal 2000. This resolution is in effect from July 15, 1999 through July 14, 2000 unless it is amended by the County Council. AGP amendments require a public hearing and review by the Planning Board and the County Executive.

The AGP resolution contains the rules and procedures for administering the adequate public facilities ordinance. It includes tables showing transportation staging ceilings, the pipeline of approved development, and net remaining capacity as of March 31, 1999. It also includes tables showing public school enrollment and capacity forecasts.

### ***Supporting and Explanatory Materials***

This edition of the AGP contains an appendix of explanatory materials to assist in answering questions about the Annual Growth Policy. These range from a "quick guide" to AGP approval procedures to detailed technical notes on the AGP's transportation tests. Persons interested in using one of the AGP's Alternative Review Procedures will find schedules of the *Development Approval Payment* and *Expedited Development Approval Excise Tax* rates. The glossary of terms contains answers to many of the most common questions about the AGP, such as how the AGP counts "jobs."

The appendix also contains the text of the adequate public facilities ordinance and the legislation establishing the AGP.

# **Fiscal Year 2000 Annual Growth Policy Resolution for Montgomery County, Maryland**

Adopted by the Montgomery County Council on June 29, 1999

## **Background**

1. County Code Section 33A-15 requires that no later than July 15 of each year, the County Council must adopt an Annual Growth Policy (AGP) Ceiling Element to be effective throughout the next fiscal year. County Code Section 33A-15 also requires that no later than November 1 of each odd-numbered year, the County Council must adopt an AGP Policy Element to be effective until November 1 of the next odd-numbered year, to provide policy guidance to the agencies of government and the general public on matters concerning land use development, growth management and related environmental, economic and social issues.
2. On May 15, 1999, in accordance with the requirements of Section 33A-15, the County Executive transmitted to the County Council his comments and recommendations on the FY 2000 Annual Growth Policy Ceiling Element based on the Final Draft FY 2000 Annual Growth Policy submitted by the Planning Board on May 3, 1999..
3. The Final Draft Annual Growth Policy Ceiling Element as submitted by the Planning Board contained supporting and explanatory materials and a set of recommended growth capacity ceilings for each policy area within the County.
4. On June 8, 1999, the County Council held a public hearing on the FY 2000 Annual Growth Policy Ceiling Element.
5. On May 27, 1999, the Council adopted the Capital Improvements Program for fiscal years 1999-2004.
6. On June 22, 1999, the Council conducted a worksession on the Annual Growth Policy Ceiling Element, at which careful consideration was given to the public hearing testimony, updated information, recommended revisions and comments of the County Executive and Planning Board, and the comments and concerns of other interested parties.
7. The Council recognizes efforts made by the Planning Board and the Executive to improve the consistency and reliability of the County growth management database. These efforts have resulted in a reduction of errors from prior years. In this regard, the Council stresses the need for sustained administrative vigilance in assessing the validity of computer-based systems and the reliability of data collection efforts. The Council recognizes that a quantitatively oriented system such as the Annual Growth Policy, though subject to limitations, can promote objectivity and fairness in land-use decision making.

## **Action**

The County Council for Montgomery County, Maryland, adopts the foregoing background statement and approves the following Resolution:

The Planning Board's Final Draft FY 2000 Annual Growth Policy Ceiling Element and comments and recommendations by the County Executive have been reviewed and amended by the County Council, and

Resolution 14-92, adopted on April 6, 1999, which constitutes the entire Annual Growth Policy for FY 1999, is amended as follows:

**Guidelines for the Administration of the Adequate Public Facilities Ordinance**

County Code Section 50-35(k) ("the Adequate Public Facilities Ordinance or APFO"), directs the Montgomery County Planning Board to approve preliminary plans of subdivision only after finding that public facilities will be adequate to serve the subdivision. This involves predicting future demand from private development and comparing it to the capacity of existing and programmed public facilities. The following guidelines describe the methods and criteria that the Planning Board and its staff must use in determining the adequacy of public facilities. These guidelines supersede all previous ones adopted administratively by the Planning Board to the extent that these guidelines conflict with previous ones. They also supersede those provisions of the Adequate Public Facilities Ordinance, which were specified to apply only until the County Council had approved an Annual Growth Policy.

The Council accepts the definitions of terms and the assignment of values to key measurement variables that were used by the Planning Board and its staff, and accepted by the Executive, in developing the recommended Annual Growth Policy. The Council delegates to the Planning Board and its staff all other necessary administrative decisions not covered by the guidelines outlined below. In its administration of the APFO, the Planning Board must consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities.

Subdivision applications may be subject to two different types of test. One is called the Policy Area Review. The other is called the Local Area Review.

The Policy Area Transportation Review divides the County into policy areas. These are geographic areas for which the adequacy of public facilities is addressed on an area-wide basis, as follows:

- With regard to transportation, a staging ceiling may be established for each policy area.
- With regard to school facilities, a legislative determination will be made whether the school facilities for each cluster will be adequate.

The staging ceiling for a policy area is the maximum amount of land development that can be accommodated by the existing and programmed public facilities serving the area, at an assigned level of service standard. The legislative directive concerning school policy areas reflects a determination whether additional development can be accommodated by the schools. The policy area staging ceilings and directives approved in this Annual Growth Policy remain in effect throughout FY2000 unless amended subsequently by the County Council after public hearing. However, the Planning Board may adjust the policy area staging ceilings, in accordance with the Board's administrative procedures, to reflect trip reduction programs, developer participation in capital improvement projects, or direction in this Resolution to adjust staging ceilings upon the occurrence of certain events.

Except for special circumstances which are described below (see discussions of "Ceiling Flexibility"), if a proposed subdivision is in a geographic policy area for which previously approved development (pipeline) exceeds the staging ceiling, or for which a negative school facility directive exists, then the Planning Board must find the public facilities to be inadequate.

The purpose of the Policy Area Transportation Review method for evaluating the adequacy of transportation facilities is to place the individual subdivision within the context of a comprehensive, countywide assessment, which takes account of, and properly allows for, the upstream and downstream traffic impacts of development in various geographic areas. Similarly, the purpose of the policy area directives concerning school facilities is to reflect the ability of the public school system to accommodate students from new development.

The policy area ceilings and directives described in this AGP are based primarily on the public facilities in the Approved FY99-04 Capital Improvements Program (CIP) and the Maryland Department of Transportation FY99-04 Consolidated Transportation Program (CTP). The Council also reviewed related County and State funding decisions, master plan guidance and zoning where relevant, and related legislative actions. These ceilings and directives and their supporting planning and measurement process have been the subject of a public hearing and review during worksessions by the County Council. Approval of the ceilings and directives reflects a legislative judgment that, all things considered, these staging ceilings and procedures constitute a reasonable, appropriate, and desirable set of interim growth limits, which properly relate to the ability of the County to program and construct facilities necessary to accommodate growth. These growth limits will substantially advance County land use objectives by providing for coordinated and orderly development.

These guidelines are not intended to be used as a means for government to avoid its responsibility to provide adequate public facilities. Annual review and oversight allows the Council to identify problems and initiate solutions that will serve to avoid or limit the duration of any moratorium on new subdivision approvals in a specific policy area. Further, alternatives may be available for developers who wish to proceed in advance of the adopted public facilities program, through the provision of additional public facility capacity beyond that contained in the approved Capital Improvements Program, or through other measures which accomplish an equivalent effect.

The administration of the Adequate Public Facilities Ordinance must at all times be consistent with adopted master plans and sector plans. Where development staging guidelines in adopted master plans or sector plans are more restrictive than AGP guidelines, the guidelines in the adopted master plan or sector plan must be used to the extent that they are more restrictive. More restrictive guidelines can be found in the Silver Spring CBD Sector Plan. The ceiling in the Potomac policy area is set at the zoning ceiling based on the policy in the Potomac Master Plan.

The ceiling in all rural areas is set at the zoning ceiling subject to guidelines for Local Area Transportation Review and guidelines for water and sewerage facilities. Rural areas are Darnestown/Travilah, Goshen, Patuxent, Poolesville, and Rock Creek.

## **A. Guidelines for Transportation Facilities**

### **1. Policy Area Transportation Review**

#### **a. Policy Areas; Establishment of Staging Ceilings**

##### **(1) Policy Areas - Boundaries and Definitions**

For the purposes of transportation analysis, the County has been divided into 313 areas called traffic zones as seen in Map 1. Based upon their transportation characteristics, these areas are grouped into transportation policy areas. In many cases, transportation policy areas have the same boundaries as planning areas, sector plan areas, or master plan analysis (or special study) areas. The policy areas in effect for FY 2000 are: Aspen Hill, Bethesda CBD, Bethesda-Chevy Chase, Clarksburg, Cloverly, Damascus, Derwood, Fairland/White Oak, Friendship Heights (as of the adoption of the revised Sector Plan), Gaithersburg City, Germantown East, Germantown Town Center, Germantown West, Glenmont, Grosvenor, Kensington/Wheaton, Montgomery Village/Airpark, North Bethesda, North Potomac, Olney, Potomac, R&D Village, Rockville City, Shady Grove, Silver Spring CBD, Silver Spring/Takoma Park, Twinbrook, Wheaton CBD, and White Flint.

Detailed boundaries of these policy areas are shown in the Final Draft FY2000 AGP Ceiling Element.

The boundaries of the Gaithersburg City and Rockville City policy areas reflect existing municipal boundaries, except where the cities are expected to annex properties in the near future or where County-regulated land is surrounded by city-regulated land. The boundaries of these municipal policy areas do not automatically change with any changes in municipal boundaries but will require affirmative Council action.

##### **(2) Components of Policy Area Transportation Review**

There are two components to Policy Area Transportation Review: a countywide freeway test and a total transportation level of service test for each policy area.

The countywide freeway level of service is the average volume-to-capacity ratio for freeway segments, weighted by the vehicle miles of travel on those freeway segments. Freeways are defined as the following limited access highways: I-495, I-270, I-270 East and West Spurs, I-370, the Cabin John Parkway, and the Clara Barton Parkway. The countywide freeway level of service standard is 0.90 (D/E).

The total transportation level of service is computed for each policy area, and represents a statistical average of roadway and transit level of service over the whole policy area. The transit level of service includes transportation by rail, bus, walking and bicycling. The roadway level of service includes transportation by driving alone and carpools. These levels of service are calculated by the transportation planning model described below.

The standard for roadway level of service in each policy area is based on a policy that it is appropriate to permit greater roadway congestion to occur in areas in which greater

transit accessibility and usage provides an alternative mode of travel for many travelers in the area. In that way, there is an approximately equivalent total transportation level of service for residents and employees throughout the County. The total transportation level of service standard is 0.585 (C-) in each policy area.

Table 6 shows the factors used in calculating the total transportation level of service: the regional transit accessibility index for each policy area, the average congestion index standard for local roads, and the mode shares for transit and auto. It is based upon materials contained in the Final Draft FY 94 Annual Growth Policy Amendment.

- The **Regional Transit Accessibility Index** measures how well the transit network connects jobs and houses. The more houses and jobs that can be accessed by transit in the least time, the higher the regional transit accessibility index value.
- The **Average Congestion Index** for local roads is the average volume-to-capacity ratio for roadway segments on major highways, arterials, and selected primary residential streets, weighted by the vehicle miles of travel on those roadway segments.
- **Mode shares** are computed from the transportation planning model, validated by the most recent observed data. All facilities and programs intended to reduce the auto-driver mode share are periodically evaluated to determine actual results achieved.

### (3) Determination of Staging Ceilings

Through the use of a transportation planning model, the Planning staff has computed a balanced relationship between a programmed set of transportation facilities and a geographical pattern of jobs and housing units. Policy area ceilings have been established through an iterative process which assigns a hypothetical future land use pattern (i.e., jobs, and housing units derived from interim market projections) to the County, and tests its traffic impact through the use of this model. Through a process of repetitive trial and error, this land use pattern has been modified so that it produces a traffic volume and distribution that is equivalent to the average level of service standard for each policy area.

This iterative procedure has as an objective minimizing the difference between anticipated congestion levels and the automobile level of service standard on local roads in each policy area and on freeways countywide. If the level of service on local roads in a policy area is anticipated to exceed the level of service standard, the amount of future land use permitted is reduced in that policy area. In addition, the magnitude of the hypothetical future land use patterns in nearby policy areas is reduced to limit adverse "upstream/ downstream" effects. If the level of service standard on freeways is anticipated to be exceeded, the magnitude of the hypothetical future land use patterns in nearby policy areas is reduced until the anticipated level of service on freeways is approximately equal to the level of service standard.

The allocation of transportation capacity between jobs and housing by the County Council reflects the General Plan's recommendations regarding the balance of jobs and housing. Attainment of that goal is often expressed by the ratio that describes the relationship between the number of employed residents per household to the number of jobs per household. Since the current jobs-to-housing ratio of existing and approved development is tilted towards jobs, allocations of new capacity as well as allocations of any reductions in capacity should generally favor housing. This may vary in policy areas with a significant staging ceiling deficit in jobs.

Some modifications to this approach may be made in specific policy areas to reflect the character of an area and its related development policies as set forth in the relevant master plan(s), the size and allocation of jobs and housing in the existing base and pipeline of development. Modifications may also be made to avoid or reduce the duration of any subdivision moratorium or to address specific equity considerations. The product of these adjustments is tested against the appropriate level of service in the transportation model to determine the specific ceiling allocation as described above. The staging ceilings established by this method are shown in Tables 1 and 2.

The Planning Board may adopt Policy Area Transportation Review guidelines and other technical materials to further document the procedures underlying the establishment of staging ceilings.

The transportation planning model takes into account all existing and approved development and all eligible programmed transportation CIP projects. For these purposes, "approved development" includes all approved preliminary plans of subdivision. "Eligible programmed transportation CIP projects" include all County CIP, State Transportation Program projects, and City of Rockville or Gaithersburg projects for which 100 percent of the expenditures for construction are estimated to occur within the first four years of the applicable programs.

Because of the unique nature of the Georgetown Branch Trolley Project and the North Bethesda Transitway in comparison with other transportation systems which are normally used in calculating development capacity, it is prudent to approach the additional capacity from these systems in a conservative way, particularly with respect to the timing of capacity and the amount of the capacity recognized.

Therefore, the counting of capacity from the Georgetown Branch Trolley Project will not occur until the actual system is constructed and operated, or at least until there is reasonable certainty as to its exact date of operation and amount of actual ridership; and

The counting of the initial capacity from the North Bethesda Transitway will not occur until the County Executive has determined that construction will begin in two years; until 100 percent of the expenditures have been appropriated; and until the County Council has approved projected ridership. Upon completion of the first full year of operation, and in all subsequent years for which staging analyses are made, the staging ceiling calculations must reflect the actual ridership achieved. To discourage sprawl development, no capacity for new development will be counted beyond the boundary of the Town of Brookeville existing on March 9, 1999 as a result of relocating MD 97 around Brookeville.

Planning staff must keep a record of all previously approved preliminary plans and other data about the status of development projects, and continuously update the pipeline number of approved preliminary plans, thus constantly keeping in view, and presenting to the Planning Board, the amount of capacity still available under the adopted ceiling at any given time. The continuous updating must include all changes to the amount of development approved under outstanding preliminary plans, with the exception of those which result from the discovery of accounting errors. Such errors must be reported to the Council each year in May, and must be reported on a quarterly basis, or more frequently, to the Planning Board who may bring them to the attention of the Council if the Board judges them to be significant. (Tables 1 and 2 show the capacity remaining as of March 31, 1999). The Planning Board should maintain a periodically updated queue list of applicants for preliminary plan of subdivision approval.

When the subdivision pipeline has risen to meet the ceiling, the Planning Board must not approve any more subdivisions in that policy area except under certain special circumstances, which are outlined below.

**b. Silver Spring CBD Policy Area Ceiling**

The Silver Spring CBD was established as a separate policy area in 1987. The boundaries of the policy area are shown in the Final Draft FY 2000 Annual Growth Policy Ceiling Element.

The job and housing ceilings for this policy area must meet the following administrative guidelines:

- All traffic limitations are derived from the heaviest traffic demand period, in Silver Spring's case, the p.m. peak hour outbound traffic.
- The average level of service for the surrounding Silver Spring/Takoma Park Policy Area must not be worse than the adopted roadway level of service standard shown in Table 6, unless the Planning Board determines that the impact of improving the intersection is more burdensome than the increased congestion.
- The outbound traffic, including both local CBD traffic and through traffic, must not exceed the Silver Spring practical cordon capacity of 18,000 vehicles in the peak hour.
- The Planning Board and the Department of Public Works and Transportation will implement Transportation Systems Management for the Silver Spring CBD. The goal of this program will be to achieve the commuting goals for transit use and auto occupancy rates set out below.
- The County Government, through the Silver Spring Parking Lot District, will constrain the amount of public and private long term parking spaces.

The staging ceilings as shown in Tables 1 and 2 meet these administrative guidelines.

The parking constraints and commuting goals needed to achieve satisfactory traffic conditions with these staging ceilings are as follows:

- **Parking constraint:** A maximum of 17,500 public and private long-term spaces when all nonresidential development is built; (this maximum assumes a peak accumulation factor of 0.9, which requires verification in Silver Spring and may be subject to revision). Interim long-term parking constraints will be imposed in accordance with the amount of interim development. Long-term public parking spaces will be priced to reflect the market value of constrained parking spaces.
- **Commuting goals:** For employers with 25 or more employees, attain 25 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 46% non-drivers during the peak periods; and

For new nonresidential development, attain 30 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 50% non-drivers during the peak periods.

Progress towards achieving these goals should be measured annually by using scientific and statistically valid survey techniques.

To achieve these goals it will be necessary to require developers of new development in Silver Spring to enter into traffic mitigation agreements and the employers and certain owners to submit transportation mitigation plans as set forth in Chapter 42A, Article II, of the County Code.

Each Annual Growth Policy will reflect the Annual Report of the Silver Spring Transportation Management District, which must include a report of the status of critical signalized intersections (as defined in the report of October 5, 1987). The Annual Growth Policy must include a projection of future traffic conditions based on intersection improvements in the proposed CIP and full achievement of the Transportation Management District goals. The Council will take this information into account in the decisions on the Growth Policy and the CIP.

In accordance with the amendment to the Silver Spring Sector Plan, subdivision applications for nonresidential standard method projects throughout the CBD may be approved for development or additions of not more than 5,000 square feet of gross floor area. However, if, for a particular use the addition of five peak hour trips yields a floor area greater than 5,000 square feet, that additional area may be approved for that particular use.

c. **Special Ceiling Allocation for Affordable Housing Facilities**

The County's policy of balancing growth in each policy area with the supply of public facilities may have the effect of undermining other important County policies for the provision of a balanced and adequate housing supply, with emphasis on the availability of affordable housing for low and moderate income families. This subsection provides a limited exception to policy area transportation review requirements to ensure that these policies are not undermined. The Planning Board may approve subdivision applications for affordable housing in any policy area with insufficient remaining capacity, according to the following guidelines:

- (1) An affordable housing development is a housing development which is either owned by the Housing Opportunities Commission or by a partnership in which HOC is the general partner; or a privately-owned housing development in which 20% of the units are occupied by households at or below 50% of the area median income, adjusted for family size, or 40% of the units are

occupied by households at or below 60% of the area median income, adjusted for family size. Such a development must be certified by HOC as affordable housing, and the owner of that development must agree with HOC to maintain the occupancy requirements for at least 15 years. These requirements include the provision of any MPDUs.

- (2) Except as provided in paragraph (3), in a policy area with insufficient remaining capacity, the Planning Board may approve in each fiscal year not more than:
  - (a) 125 units for projects owned or controlled by HOC;
  - (b) 300 units for privately owned affordable housing developments; or
  - (c) an aggregate of 300 units in a policy area with both HOC owned and controlled developments and privately owned affordable housing developments.
- (3) The Planning Board must not approve additional housing units under this allocation in a policy area:
  - (a) that has been in a moratorium for new housing subdivision approvals for more than the number of consecutive years listed in the table below, and the remaining capacity for the policy area is at least the number of housing units listed in the table below in deficit; and
  - (b) if the Planning Board has cumulatively approved 500 housing units in that policy area under this special ceiling allocation.

**Remaining Capacity Threshold in Housing Units  
by Length of Moratorium**

Years in Moratorium	4 years	5 years	6 years	7 years	8 years	9+ years
Housing Deficit	-2,000	-1,800	-1,600	-1,400	-1,200	-1,000

Subject to the housing unit cap under paragraph (2), approvals under this special ceiling allocation may resume if the deficit in remaining capacity in the policy area has been reduced under the number of housing units listed in the table above, but only to the extent that transportation capacity has increased (as calculated from the housing unit point listed in the table above) due to a programmed transportation improvement that is either under construction or funded for construction in the fiscal year for which the special ceiling allocation is requested from the Planning Board.

If the subdivision moratorium is eliminated in a policy area subject to this paragraph and is later reinstated, the calculation of the number of cumulative housing units approved under this special ceiling allocation starts at zero.

- (4) Any development approved under this subsection must meet all zoning requirements and all other subdivision requirements, including standards for local area transportation review.
- (5) Development approved under this subsection will be added to the pipeline.

- (6) Each recommended annual growth policy ceiling element must contain a list of all pending or approved development under this subsection.
- (7) If the state includes completion of the full interchange between Rockledge Drive and I-270 in its FY1999-2004 Consolidated Transportation program and completion is shown by FY2002, the staging ceilings for North Bethesda may be increased after the Planning Board has calculated the development ceiling associated with that project.

**d. Ceiling Flexibility for Developer Participation Projects**

Staging Ceiling Flexibility allows the Planning Board, after considering the recommendation of the County Executive, to approve a preliminary plan application which exceeds the staging ceiling. In allowing the staging ceiling to be exceeded, caution should be exercised to assure that the average level of service for the relevant policy area is not adversely affected. Except as otherwise expressly stated in this subsection, the same level of service criteria already established in the Annual Growth Policy must be used in evaluating an application under these ceiling flexibility provisions.

In general, each approval above the staging ceiling must be conditioned upon the planned and scheduled construction by either the applicant and/or the government of some public facility project or other appropriate capacity measure (such as the private operation of a transit program) which, if added to the approved CIP or CTP programmed facilities, will add capacity or its equivalent to the existing facility system and result in no lessening of the area-wide level of service.

In general, the capacity addition must be scheduled for completion at the same time or before the proposed development is to be completed. The application must also be approved under Local Area Transportation Review standards. The nature, design and scale of the additional project or program must receive prior approval from the relevant governmental agencies responsible for constructing or maintaining such facilities or programs. The recommendation of the Executive also must be evaluated carefully.

Both the subdivision plan and the necessary additional facilities must be in accordance with an adopted master plan or other relevant policy statement; the design of the facilities must be subject to mandatory referral to the Planning Board; and the applicant and the relevant public agency must execute an appropriate public works agreement prior to record plat approval.

The phrase "additional transportation facilities" means transportation facilities other than those on which the policy area staging ceilings of the current Annual Growth Policy are based.

**(1) Full-Cost Developer Participation**

If an applicant agrees to pay for the full cost of all the additional necessary public facilities, and the relevant administering agency has agreed, the Planning Board may approve subdivision plans whose public facility needs exceed the net remaining capacity under the adopted staging ceiling.

Where the applicant commits to provide the full cost of a transit, para-transit or ridesharing program, such application may be deemed to have passed the staging ceiling test, insofar as transportation is concerned, if the Board finds, after reviewing recommendations of the County Executive, that the program will reduce the number of peak-hour, peak-direction automobile

trips by as many trips as would be generated by the proposed development. After a preliminary subdivision plan has been approved on this basis, later applications may be credited for reduced trips generated by the new proposal.

**(2) Development District Participation**

Under Chapter 14 of the County Code, development districts may be created by the County Council as a funding mechanism for needed infrastructure in areas of the County where substantial development is expected or encouraged. The Planning Board may approve subdivision plans in accordance with the terms of the development district's provisional adequate public facilities approval (PAPF).

The development district's PAPF must be prepared in the following manner:

- (a) One or more property owners in the proposed district may submit to the Planning Board an application for provisional adequate public facilities approval for the entire district. In addition to explaining how each development located in the district will comply with all applicable zoning and subdivision requirements, this application must:
  - show the number and type of housing units and square footage and type of the non-residential space to be developed, as well as a schedule of proposed buildout in four-year increments;
  - identify any infrastructure improvements necessary to satisfy the adequate public facilities requirements for development districts; and
  - estimate the cost to provide these improvements.
- (b) The Planning Board must then review all developments within the proposed development district as if they are a single development for compliance with the Adequate Public Facilities Ordinance. The Planning Board must identify the public facilities needed to support the buildout of the development district after considering the results of the following tests for facility adequacy:
  - Transportation tests for development districts are identical to those for (1) Full-Cost Developer Participation, except that some portion of the needed facilities may be funded by the public sector. Existing staging ceiling capacity may only be considered to the extent that there is more than enough capacity to accommodate pending complete subdivision applications in the queue. If development districts cross policy area boundaries, staging ceiling capacity in one policy area must not be used as the basis for approving development located within another policy area. Planning Department staff must prepare a list of transportation infrastructure needed to maintain public facility adequacy.
  - The PAPF application must be referred to Montgomery County Public Schools staff for recommendations for each stage of development in the proposed district. MCPS staff must calculate the extent to which the development district will add to

MCPS's current enrollment projections. MCPS staff must apply the existing school adequacy test to the projections with the additional enrollment and prepare a list of public school infrastructure needed to maintain public facility adequacy.

- The PAPF application must be referred to the Washington Suburban Sanitary Commission for recommendations for each stage of development in the proposed district. Wastewater conveyance and water transmission facilities must be considered adequate if existing or programmed (fully-funded within the first four years of the approved WSSC capital improvements program) facilities can accommodate (as defined by WSSC) all existing authorizations plus the growth in the development district. Adequacy of water and wastewater treatment facilities must be evaluated using the intermediate or "most probable" forecasts of future growth plus development district growth, but only to the extent that development district growth exceeds the forecast for any time period. If a test is not met, WSSC must prepare a list of water and sewer system infrastructure needed to maintain public facility adequacy.
  - The PAPF application must be referred to the County Executive for recommendations for each stage of development in the proposed district regarding police, fire, and health facilities. Adequacy of police, fire, and health facilities must be evaluated using the intermediate or most probable forecasts of future growth plus development district growth, but only to the extent that development district growth exceeds the forecast for any time period. Any facility capacity which remains is available to be used by the development district. If any facility capacity deficits exist, the County Executive must prepare a list of infrastructure needed to maintain public facility adequacy.
- (c) The Board may conditionally approve the PAPF application if it will meet all of the requirements of the APFO and AGP. The Board may condition its approval on, among other things, the creation and funding of the district and the building of no more than the maximum number of housing units and the maximum nonresidential space listed in the petition.

For an application to be approved, the applicants must commit to produce the infrastructure improvements needed to meet APF requirements in the proposed district as well as any added requirements specified by the Planning Board. The Planning Board must list these required infrastructure improvements in its approval. The infrastructure improvements may be funded through the development district or otherwise.

The Planning Board must not approve a PAPF application unless public facilities adequacy, as defined by the tests in (2)(b), is maintained throughout the life of the plan. The timing of infrastructure delivery may be accomplished by withholding the release of building permits until needed public facilities are available to be "counted," or by another similar mechanism.

Infrastructure may be counted for public facilities adequacy when:

- (i) for infrastructure provided by the district, construction has begun on the facility and funds have been identified and committed to its completion; and

(ii) for infrastructure provided by the public sector:

- For Policy Area Transportation Review, the project is fully-funded within the first four years of the approved County, state, or municipal capital improvements program;
- For Local Area Transportation Review, the project is included in the most recent edition of the Approved Road Program;
- For water and sewer facilities, the project is fully-funded within the first four years of the approved WSSC capital improvements program;
- For public school facilities, the project is fully-funded within the first four years of the approved Montgomery County Public Schools capital improvements program; and
- For police, fire, and health facilities, the project is fully-funded within the first six years of the relevant approved capital improvements program.

(d) The County Executive and Planning Board may also recommend to the County Council additional facilities to be provided by the development district or by the public sector to support development within the district. These facilities may include, but are not limited to libraries, health centers, local parks, social services, greenways, and major recreation facilities.

(e) As provided in Chapter 14 of the Montgomery County Code, once the development district is created and the financing of all required infrastructure is arranged, the development in the district is considered to have satisfied all APF requirements, any additional requirements that apply to development districts in the AGP, and any other requirement to provide infrastructure which the County adopts within 12 years after the district is created.

**(3) Miscellaneous Provisions**

Further staging ceiling flexibility is not available in the Silver Spring CBD because traffic mitigation measures of the Transportation Management District have been relied upon to establish the ceilings for the Silver Spring CBD policy area.

**e. Ceiling Flexibility - De Minimis Impacts**

The Planning Board may approve preliminary plans which add only a few vehicle trips as provided in this subsection. In policy areas with no ceiling balance (i.e., no remaining capacity), all land at one location for which zoning or other constraints permit no more than five trips in total may receive approval of up to five trips. Non-residential plans submitted for the purpose of expanding structures which were completed before 1982, or which otherwise request additional development on land that was partially developed before 1982, may receive approval for additional development which adds no more than five trips. Any outlot created under this subsection before November 1, 1995, may be

developed if the owner pays to the County a development approval payment as if the plan were approved under the Alternative Review Procedure for Expedited Development Approval. The term, "all land at one location," means all land that would be included in a determination of whether a project is a "significantly sized project" under the Planning Board's adopted guidelines for Local Area Transportation Review.

**f. Amendment of Policy Ceilings**

From time to time, these staging ceilings may be amended by the Montgomery County Council, after public hearing, to reflect changing conditions such as additions to the Capital Improvements Program or the State's Consolidated Transportation Program, changing patterns of public facility usage, revised levels of public service, and other relevant criteria.

Policy area ceilings may also be amended by the County Council to resolve public policy conflicts and to accomplish a particular public policy objective.

**g. Allocation of Staging Ceiling to Preliminary Plans of Subdivision**

The Planning Board allocates available staging ceiling capacity in a policy area based on the queue date of an application for preliminary plan of subdivision approval.

**(1) Assignment of queue date**

The queue date of a preliminary plan of subdivision is the date:

- (a) a complete application is filed with the Planning Board;
- (b) a traffic study is filed, if required to obtain a new queue date under paragraph (4)(b); or
- (c) 6 months after the prior queue date if the prior queue date expires under subparagraph (3)(a)(a) and the application does not require a traffic study.

**(2) Calculation of available staging ceiling capacity**

- (a) The Planning Board determines whether there is adequate staging ceiling capacity available for a project by subtracting the capacity required by projects with earlier queue dates from the remaining capacity on Table 2 as updated periodically. Based on this calculation, the Planning Board may:
  - (b) approve a project for which there is sufficient capacity;
  - (c) approve part of a project for which there is sufficient capacity, leaving the remainder of the project in the queue until additional capacity becomes available;
  - (d) deny an application for a project for which there is insufficient capacity; or
  - (e) defer approval of a project and leave the project in the queue until sufficient capacity becomes available for all or part of the project. In situations where there is insufficient capacity, staff must not schedule a hearing on the application unless the applicant requests one.

If there is sufficient capacity for a project based on the queue date, the Planning Board must not deny an application based on pipeline (but not staging ceiling) changes while the queue date is in effect.

**(3) Expiration of queue date**

A queue date for an application for preliminary plan of subdivision approval expires:

- (a) 6 months after the queue date if there was sufficient staging ceiling capacity for the entire project on the queue date and the Planning Board has not approved the application or granted an extension of the queue date (see paragraph 2 below);
- (b) 6 months after sufficient capacity becomes available for the entire project if a traffic study is not required under paragraph (4)(a);
- (c) 6 months after a traffic study is filed if required under paragraph (4)(a); or
- (d) on the applicant's failure to request background data, to submit a traffic study, or to submit a complete updated traffic study after notice that a study is incomplete, all within the time limits in subsection (4).

The Planning Board may grant one or more 6-month extensions of a queue date if the applicant demonstrates that a queue date expired or will expire because of governmental delay beyond the applicant's control. The Planning Department may grant one 6-month extension of a queue date for Department of Permitting Services approval of individual sewage disposal or wells. Any additional queue date extensions for Department of Permitting Services approval may only be granted by the Planning Board.

**(4) Traffic studies**

**(a) Required when sufficient capacity becomes available**

The queue date of an application for which there is not sufficient staging ceiling capacity when the complete application is filed will expire when sufficient capacity becomes available, unless the applicant:

- (i) requests background data from the Planning Board to prepare a traffic study within 1 month after capacity becomes available; and
- (ii) submits a traffic study within 1 month after receiving the background data. However, if the Planning Board provides the background data between June 1 and September 15, the study must be submitted by October 15.

**(b) Required to obtain a new queue date after expiration**

If the queue date of an application which includes a traffic study expires, an updated traffic study must be filed to obtain a new queue date.

**(c) Notice of incomplete traffic study**

The Planning Board must notify an applicant within 15 days after a traffic study is filed if the study is incomplete. An applicant must file a complete traffic study within 30 days of receipt of the notice that a study is incomplete.

**(2) Special Ceiling Allocation for Affordable Housing**

If an application for a preliminary plan approval that uses the special ceiling allocation for affordable housing is denied by the Planning Board after July 1, 1992, the applicant retains its original queue date and is subject to all other applicable provisions of this subsection.

**2. Local Area Transportation Review (LATR)**

**a. Establishment of Local Area Transportation Review Standards**

The transportation planning model used for Policy Area Transportation Review addresses the average level of traffic in the policy area. If this were the only test, an area with acceptable average level of service could have one or more intersections, or roadway links, with unacceptably poor levels of service. It is necessary, therefore, that a local area test be applied to assure that new development is not allowed to cause such congestion.

To achieve an approximately equivalent transportation level of service in all areas of the County, greater congestion is permitted in policy areas with greater transit accessibility and usage. Table 7 shows the intersection level of service standards by policy area. Local Area Transportation Review must at all times be consistent with the standards and staging mechanisms of adopted master plans and sector plans.

Local Area Transportation Review must be undertaken for subdivisions which would generate 50 or more peak hour automobile trips in either of the following circumstances:

- (1) For the policy area, total approved development is within 5 percent of the policy area ceiling; or
- (2) For the local area, the proposed development is located near a congested area.

In administering the Local Area Transportation Review (LATR), the Planning Board must not approve a subdivision if it finds that an unacceptable peak hour level of service will result after taking into account existing roads, programmed roads, available or programmed mass transportation, and improvements to be provided by the applicant. If the subdivision will affect an intersection, or roadway link for which congestion is already unacceptable, then the subdivision may only be approved if it does not make the situation worse.

The nature of the LATR test is such that a traffic study is necessary if local congestion is likely to occur. The Planning Board and staff must examine the applicant's traffic study to determine whether adjustments are necessary to assure that the traffic study is a reasonable and appropriate reflection of

the traffic impact of the proposed subdivision after taking into account all approved development and programmed transportation projects.

For Local Area Transportation Review purposes, the programmed transportation projects to be considered are those included in the most recent edition of the County Executive's Approved Road Program (ARP). The Approved Road Program includes only roads programmed in the current approved Capital Improvements Program and the Maryland Consolidated Transportation Program for which:

- (1) The County Executive has determined that construction will begin within two years of the effective date of the approved road program; and
- (2) In the case of the County CIP, 100 percent of the expenditure for contracts, have been appropriated.

For these purposes, any road required under Section 302 of the Charter to be authorized by law is not programmed until the time for petition to referendum has expired without a valid petition, or the authorizing law has been approved by referendum.

If an applicant is participating in a traffic mitigation program or one or more intersection improvements to meet Local Area Transportation Review requirements, that applicant will be considered to have met Local Area Transportation Review for any other intersection where the volume of trips generated is less than five Critical Lane Movements.

The Planning Board has adopted guidelines for the administration of Local Area Transportation Review. To the extent that they are consistent with this Policy, the Planning Board guidelines may continue to apply or to be amended as the Planning Board deems it necessary to do so.

After consultation with the Council, the Planning Board may adopt administrative guidelines that allow use of a "delay" or queuing analysis, different critical lane volume standards, or other methodologies, to determine the level of congestion in appropriate geographic locations such as in urbanized areas, around Metrorail stations, or in specific confined areas planned for concentrated development related to other forms of transit.

In its administration of Local Area Transportation Review, the Planning Board must carefully consider the recommendations of the County Executive concerning the applicant's traffic study and proposed improvements or any other aspect of the review.

To achieve safe and convenient pedestrian travel, the Planning Board may adopt administrative guidelines requiring construction of off-site sidewalk improvements consistent with Section 50-25 of the County Code. To maintain an approximately equivalent transportation level of service at the local level considering both auto and non-auto modes of travel, the Planning Board may permit a reduction in the amount of roadway construction or traffic mitigation needed to satisfy the conditions of Local Area Transportation Review in exchange for the construction of non-automobile transportation amenities, such as sidewalks and bus shelters.

**b. Silver Spring CBD LATR Standards**

In the Silver Spring CBD Policy Area, the Planning Board, in consultation with the Department of Public Works and Transportation, must prepare performance evaluation criteria for its Local Area Transportation Review. These criteria must be used to accomplish: (a) safety for pedestrians and vehicles; (b) access to buildings and sites; and (c) traffic flow within the vicinity, at levels which are tolerable in an urban situation. The County Executive must publish a Silver Spring Traffic Management Program after receiving public comment and a recommendation from the Planning Board. This program must list those actions to be taken by government to maintain traffic flow at tolerable levels in the Silver Spring CBD and protect the surrounding residential area.

**c. Potomac LATR Standards**

In the Potomac Policy Area, only the areas contributing traffic to the following intersections must be subject to Local Area Transportation Review: (a) Montrose Road at Seven Locks Road; (b) Democracy Boulevard at Seven Locks Road; (c) Tuckerman Lane at Seven Locks Road; (d) Democracy Boulevard at Westlake Drive; (e) Westlake Drive at Westlake Terrace; (f) Westlake Drive at Tuckerman Lane; and (g) Bradley Boulevard at Seven Locks Road.

**3. Alternative Review Procedures**

**a. Metro Station Policy Areas**

An applicant for a subdivision which will be built completely within the Bethesda CBD, Wheaton CBD, Grosvenor, White Flint, or Twinbrook Metro station policy areas need not submit any application or take any action under 2. **Local Area Transportation Review (LATR)** if the applicant agrees in a contract with the Planning Board and the County Department of Public Works and Transportation to:

- (1) make its best efforts to meet mode share goals established by the Planning Board as a condition of approving that subdivision;
- (2) participate in programs operated by, and take actions specified by, a transportation management organization (TMO) to be established by County law for that policy area (or a group of policy areas including that policy area) in order to meet the mode share goals established under paragraph (1);
- (3) pay an ongoing annual contribution or tax to fund the TMO's operating expenses, including minor capital items such as busses, as established by County law; and
- (4) pay a development approval payment (DAP), to be established by County law, over a multi-year period starting when the building permit is issued and indexed to reflect inflation in construction costs.

The Planning Board must conduct a comprehensive Local Area Transportation Review for each policy area in which it approves a subdivision under this procedure and should specify for inclusion in the Capital Improvements Program any transportation improvements needed to support that subdivision.

**b. Expedited Non-Residential Development Approval**

Beginning November 1, 1997 until October 31, 2001, an applicant for a preliminary plan of subdivision for any non-residential development need not take any action under 1. Policy Area Transportation Review or 2. Local Area Transportation Review if the applicant pays to the County an expedited development approval excise tax, in an amount and at times set by County law. However, the applicant must include in its application for preliminary subdivision plan approval all information that would be necessary if the requirements for Local Area Transportation Review applied. As used in this subsection, non-residential development includes the non-residential component of a mixed-use project but does not include the residential component.

This Procedure may also be used if the applicant reapplies for a preliminary plan of subdivision for development approved under a preliminary plan of subdivision approved by the Planning Board before November 1, 1997 and the applicant has not already received a building permit for the building or buildings proposed in the revised preliminary plan. All requirements of this Policy and any other law or regulation otherwise applicable when the reapplication is filed (other than requirements imposed under 1. Policy Area Transportation Review or 2. Local Area Transportation Review) apply to the reapplying subdivision. Any previously approved subdivision for which funds were expended for transportation improvements necessary to meet Policy Area Transportation Review or Local Area Transportation Review requirements must not be reimbursed or credited for those expenditures.

The use of this Procedure is subject to the following conditions:

- (1) The applicant must record a plat for the development approved under this Procedure no later than 2 years after the Planning Board approves the preliminary plan of subdivision for that development. The applicant must receive each building permit no later than 2 years after a plat for the approved subdivision is recorded. If either deadline is not met, the approval for the subdivision or that portion of the subdivision for which the deadline is not met expires.
- (2) This Procedure must not be used where use of it would allow any development to be approved that would not be approved if the Planning Board acted in accordance with any master plan development staging recommendations related to transportation improvements that require Annual Growth Policy approval of increased ceiling capacity to proceed to an additional stage of development.
- (3) An applicant whose property is located in a moratorium area when the application for preliminary plan approval is filed and pays the expedited development approval excise tax applicable to moratorium areas is not eligible for reapproval of the subdivision after the area is no longer in moratorium in order to pay the excise tax at non-moratorium rates.
- (4) The Planning Board must report in the recommended AGP Ceiling Element each year on the number of housing units and amount of nonresidential development approved and built under this Procedure and should recommend for inclusion in the Capital Improvements Program any needed transportation improvements.

The Planning Board may approve a preliminary plan of subdivision under 3. b. **Expedited Development Approval** for any residential development as if this Procedure has not been amended to

exclude residential developments, and for any commercial development for which the applicant has already received a building permit for the building or buildings proposed in the revised preliminary plan if an application for a preliminary plan of subdivision for that development was filed no later than noon, May 12, 1998 or the Planning Board reviewed a pre-preliminary plan of subdivision which proposed the use of the Alternative Review Procedure for Expedited Development Approval before that date. Any development so approved is subject to all requirements of 3. b. **Expedited Development Approval** as it appeared before the Procedure was amended in Resolution 13-1271 (May 13, 1998).

Notwithstanding any other provision of this Annual Growth Policy, the Planning Board must not approve a preliminary plan of subdivision, or amend a previously-approved plan, under this Procedure until November 1, 1999, if:

- (1) the application for the plan or plan amendment, or the application to use this Procedure to approve the plan or plan amendment, was filed on or after May 18, 1999; and
- (2) the plan or plan amendment would allow the construction, by itself or in combination with other development already approved, of more than 100,000 square feet of non-residential development or any non-residential development located in the Fairland/White Oak policy area.

**c. Limited Residential Development**

Beginning November 1, 1997 until October 31, 2001, an applicant for a residential subdivision need not take any action under 1. Policy Area Transportation Review or 2. Local Area Transportation Review if the applicant pays to the County a Development Approval Payment, established by County law, before the building permit is issued. However, the applicant must include in its application for preliminary plan approval all information that would have been necessary if the requirements for Local Area Transportation Review applied.

The use of this procedure is subject to the following conditions:

- (1) The Procedure must not be used in any part of the County which is located in a rural area as defined in this resolution.
- (2) The Procedure must not be used in any policy area which is exempt from the Special Ceiling Allocation for Affordable Housing or would be exempt from that Allocation if the Planning Board had approved at least 500 housing units in that policy area under that Allocation. However, the Procedure may be used in the Fairland-White Oak Policy Area to approve a planned unit development that includes a golf course or other major amenity that is developed on a public/private partnership basis.
- (3) Under this Procedure, the Planning Board must not approve
  - (a) more than 300 units in any policy area in each fiscal year; and
  - (b) more than 100 units at a single location under common ownership and control, as defined by the Planning Board's LATR guidelines. However, the Board may approve a development with more than 100 units at a single location if not more than 100 units will be constructed in a single fiscal year.

- (4) Any applicant for a subdivision under this Procedure must agree, as part of the application, that it will build the same number of Moderately Priced Dwelling Units (MPDUs) among the first 100 units that it would be required to construct at that location if the subdivision consisted of only 100 units, or a pro rata lower number of MPDUs if the subdivision will include fewer than 100 units.
- (5) Any applicant for a subdivision approval under this procedure must agree, as part of the application, that it will not begin to construct any residential unit approved in the application later than 3 years after the plat is recorded or the site plan is approved (whichever occurs later).

The Planning Board must report in the recommended AGP Ceiling Element each year on the number of housing units approved and built under this procedure and should specify for inclusion in the Capital Improvements Program any transportation improvements needed to support those units.

**d. Development Capacity Transferability - Silver Spring Central Business District**

- (1) The Planning Board may approve the voluntary transfer of staging ceiling capacity from an existing vacant building or a subdivision in the pipeline of approved development to a subdivision in the queue of pending development if both subdivisions are located completely within the Silver Spring Central Business District policy area. Job capacity may be transferred to jobs and housing capacity may be transferred to housing on a one-for-one ratio, and jobs-to-housing or housing-to-jobs capacity may be transferred at a ratio set in each case by the Planning Board.
- (2) The original holder of the development capacity may transfer all or part of the development capacity to another subdivision. If only a portion of the development capacity is transferred, the balance of the development capacity remains with the original holder until the original subdivision's development approval expires. For partially completed subdivisions in the pipeline of approved development, only that portion of the development capacity on which construction has not begun may be transferred.
- (3) The developer of a subdivision in the queue of pending development may provide some or all of the development capacity needed for the subdivision by receiving capacity under this section. If net remaining capacity is available but is insufficient for a subdivision at the head of the queue to receive subdivision approval, the developer of that subdivision may provide the remaining development capacity required by receiving capacity under this section.
- (4) Before the Board approves a transfer, a transfer agreement must be executed by the transferor, the transferee, the Planning Board and the County Department of Public Works and Transportation. The transfer agreement must provide that the original holder of the development capacity forfeits the Planning Board finding of adequate public facilities for the approved building or subdivision. The agreement must specify the cost to the transferee, on a per-unit or per-job basis, of the transferred development capacity.
- (5) If development capacity is transferred from an approved but not completed subdivision, the portion of that subdivision associated with the transferred development capacity must be removed from the pipeline of approved development and building permits, if any, issued for

buildings in the subdivision associated with the transferred capacity should be canceled. The original subdivision, or portion of that subdivision from which development capacity was transferred, may be resubmitted to the Planning Board for adequate public facilities approval and if the Board finds that adequate public facilities will be available the Board may reinstate the subdivision or portion of the subdivision into the pipeline of approved development.

- (6) The expiration date of development capacity transferred from a subdivision in the pipeline of approved development to a subdivision in the queue of pending development does not change as a result of the transfer. Development capacity transferred from an existing building expires when the receiving subdivision's preliminary plan expires.
- (7) The owner of an existing building may transfer the development capacity associated with the building under this section. The owner must apply for and receive from the Planning Board certification of the development capacity associated with the building. Any transfer of development capacity from an existing building is not complete until the building is demolished. However, the owner of an existing non-residential building who wishes to convert that building to residential use may convert the jobs capacity associated with that building to residential capacity at a ratio set by the Planning Board.
- (8) The owner of an existing building may demolish the building before transferring its development capacity. The owner of a demolished building may transfer the development capacity within five years after the building is demolished. If the development capacity is transferred from a demolished building, the owner may later apply to the Planning Board for approval of adequate public facilities for a new development on the site. If the Board finds that adequate public facilities will be available for that development, the Board must ass the proposed development to the pipeline of approved development.
- (9) If capacity is transferred from a non-residential building or subdivision to a residential subdivision, or from a residential building or subdivision to a non-residential subdivision, subject to the Planning Board's approval at the time of subdivision approval, the appropriate jobs-to-housing or housing to jobs ratio must be maintained.
- (10) Development capacity may be transferred from a subdivision which was in the pipeline of approved development before May 19, 1998. A subdivision using transferred development capacity must meet the requirements of section (I.) (A.) (1.) (b.).
- (11) Development capacity acquired under the Special Ceiling Allocation for Affordable Housing or under any Alternative Review Procedure must not be transferred under this section.
- (12) A subdivision that received subdivision approval through Ceiling Flexibility for Developer Participation Projects may be removed from the pipeline of approved development and resubmitted for subdivision approved using transferred development capacity under this section unless the subdivision is required to implement a traffic mitigation program. If a traffic mitigation program is required, capacity may be transferred if all off-site transportation improvement conditions are met by either the developer of the original subdivision or the developer of the subdivision receiving transferred development capacity.

**B. Guidelines for Public School Facilities**

**1. Geographic Area**

For the purposes of public school analysis and local area review of school facilities at time of subdivision, the County has been divided into 21 areas called high school clusters as shown in Map 6. These areas coincide with the cluster boundaries used by the Montgomery County Public School system.

The Council evaluates available capacity in each high school cluster and compared enrollment projected by Montgomery County Public Schools for each fiscal year with projected school capacity four years out.

If insufficient capacity is available, the Council determines whether an adjacent cluster or clusters has sufficient capacity to cover the projected deficit in school capacity. The Council's groupings are only for the administration of the Adequate Public Facilities Ordinance and are not in any way a required action by the Board of Education in exercising its power to designate school service boundaries.

**2. School Capacity Measure**

The Council uses 110 percent of Council funded program capacity as the school capacity measure in the administration of the Adequate Public Facilities Ordinance. This capacity measure does not count relocatable classrooms in computing a school's permanent capacity.

Based on the approved FY 99-04 CIP, the Council funded regular program classroom capacity is based on calculations that assign of 25 for grades 1-6, 44 for half day kindergarten where it is currently provided, 22 for all day kindergarten where it is currently provided, and an effective class size of 22.5 for secondary grades.

**3. Grade Levels**

Each of the three grade level clusters, namely elementary, intermediate/middle school, and high school, are assessed separately as part of the Annual Growth Policy.

**4. Determination of Adequacy**

Using the approach outlined above, and assuming the approved FY 99-04 CIP, the Council declares school capacity for school year 2003 to be adequate for anticipated growth during FY2000 in all high school clusters at all grade levels. Tables 3, 4, and 5 present the results of this analysis.

The Planning Board, in its review of preliminary plans of subdivision in FY 2000, must consider schools to be adequate for APFO purposes in all clusters.

**5. Affordable Housing**

Because school capacity is determined to be adequate under paragraph (4) of this subsection, the Special Ceiling Allocation for Affordable Housing may be invoked only with respect to transportation ceilings. The need for such a special ceiling allocation with respect to school capacity must be considered when that capacity is determined to be inadequate in a particular cluster.

**C. Guidelines for Water and Sewerage Facilities**

In accordance with the Adequate Public Facilities Ordinance, both in policy areas with a staging ceiling and in those without one, applications must be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is presently available, is under construction, is designated by the County Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan (i.e., categories I, II, and III), or if the applicant either provides a community water and/or sewerage system or meets Department of Permitting Services requirements for septic and/or well systems, as outlined in the Adequate Public Facilities Ordinance. These requirements are determined either by reference to the Water and Sewerage Plan, adopted by the Council, or by obtaining a satisfactory percolation test from the Department of Permitting Services.

Applications must only be accepted for further Planning staff and Board consideration if they present evidence of meeting the appropriate requirements.

**D. Guidelines for Police, Fire and Health Services**

The Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated. Such a problem is one which cannot be overcome within the context of the approved Capital Improvements Program and operating budgets of the relevant agencies. Where such evidence exists, either through agency response to the Subdivision Review committee clearinghouse, or through public commentary or Planning staff consideration, a Local Area Review must be undertaken. The Board must seek a written opinion from the relevant agency, and require, if necessary, additional data from the applicant, to facilitate the completion of the Planning staff recommendation within the statutory time frame for Planning Board action. In performing this Local Area Review, the facility capacity at the end of the sixth year of the approved CIP must be compared to the demand generated by the "most probable" forecast for the same year prepared by the Planning Department.

**E. Guidelines for Resubdivisions**

An application to amend a previously approved preliminary plan of subdivision does not require a new test for adequacy of public facilities if:

Revisions to a preliminary plan have not been recorded, the preliminary plan has not expired, and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.

Resubdivision of a recorded lot involves the sale or exchange of parcels of land (not to exceed a total of 2,000 square feet or one percent of the combined area, whichever is greater) between owners of adjoining properties to make small adjustments in boundaries.

Resubdivision of a recorded lot involves more than 2,000 square feet or one percent of the lot area and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.

## **II. Timely Adequate Public Facilities Determination and Local Area Transportation Review under Chapter 8 - Buildings.**

### **A. General.**

Except as otherwise provided by law, an adequate public facilities determination or local area transportation review conducted under Article IV of Chapter 8 must use the standards and criteria applicable under Section I. of this Resolution when evaluating the adequacy of public facilities to serve the proposed development.

### **B. Traffic Mitigation Goals.**

Any proposed development that is subject to requirements for a traffic mitigation agreement under Article IV of Chapter 8 and Chapter 42A-9A of the County Code must meet the traffic mitigation goals specified in paragraphs (1) or (4), as appropriate.

- (1) Subject to paragraph (2), the portion of peak-period nondriver trips by employees of a proposed development must be at least the following percentage greater than the prevailing nondriver mode share of comparable nearby land use:

<b>In Policy Areas With LATR CLV Standard of</b>	<b>Required Percentage Greater Than Prevailing Nondriver Mode Share</b>
1800 and 1650	100%
1600	80%
1550	60%
1500 and 1525	40%

LATR CLV standards for each policy area are shown on Table 7.

- (2) The portion of peak-period nondriver trips by employees calculated under paragraph (1) must not be less than 15% nor higher than 55%.
- (3) The applicant for a proposed development in a policy area specified under paragraph (1) is responsible for reviewing existing studies of nondriver mode share; conducting new studies, as necessary, of nondriver mode share; and identifying the prevailing base nondriver mode share of comparable land uses within the area identified for the traffic study. Comparable land uses are improved sites within the area identified for the traffic study for the proposed development that have similar existing land use and trip generation characteristics. As with other aspects of the traffic study required by Article IV of Chapter 8, selection of the comparable studies and land uses to be analyzed and determination of the prevailing base nondriver mode share are subject to review by the Planning Department and approval by the Department of Public Works and Transportation.
- (4) Proposed development in the Silver Spring CBD must meet the commuting goals specified under Section I.A.1.(b).

- (5) In accordance with County Code Section 42A-9A, the applicant must enter into an agreement with the Director of the Department of Public Works and Transportation before a building permit is issued. The agreement may provide for a schedule for full compliance with the traffic mitigation goals. It must provide appropriate enforcement mechanisms for compliance.
- (6) As provided by law, these goals supersede traffic mitigation goals established under Section 42A-9A(a)(4).

### III. Issues to be Addressed in the Future

The following matters should be addressed by the Planning Board and the County Executive for presentation to and decision by the County Council no later than in the 1999 review of the Policy Element of the Annual Growth Policy, or sooner if otherwise noted:

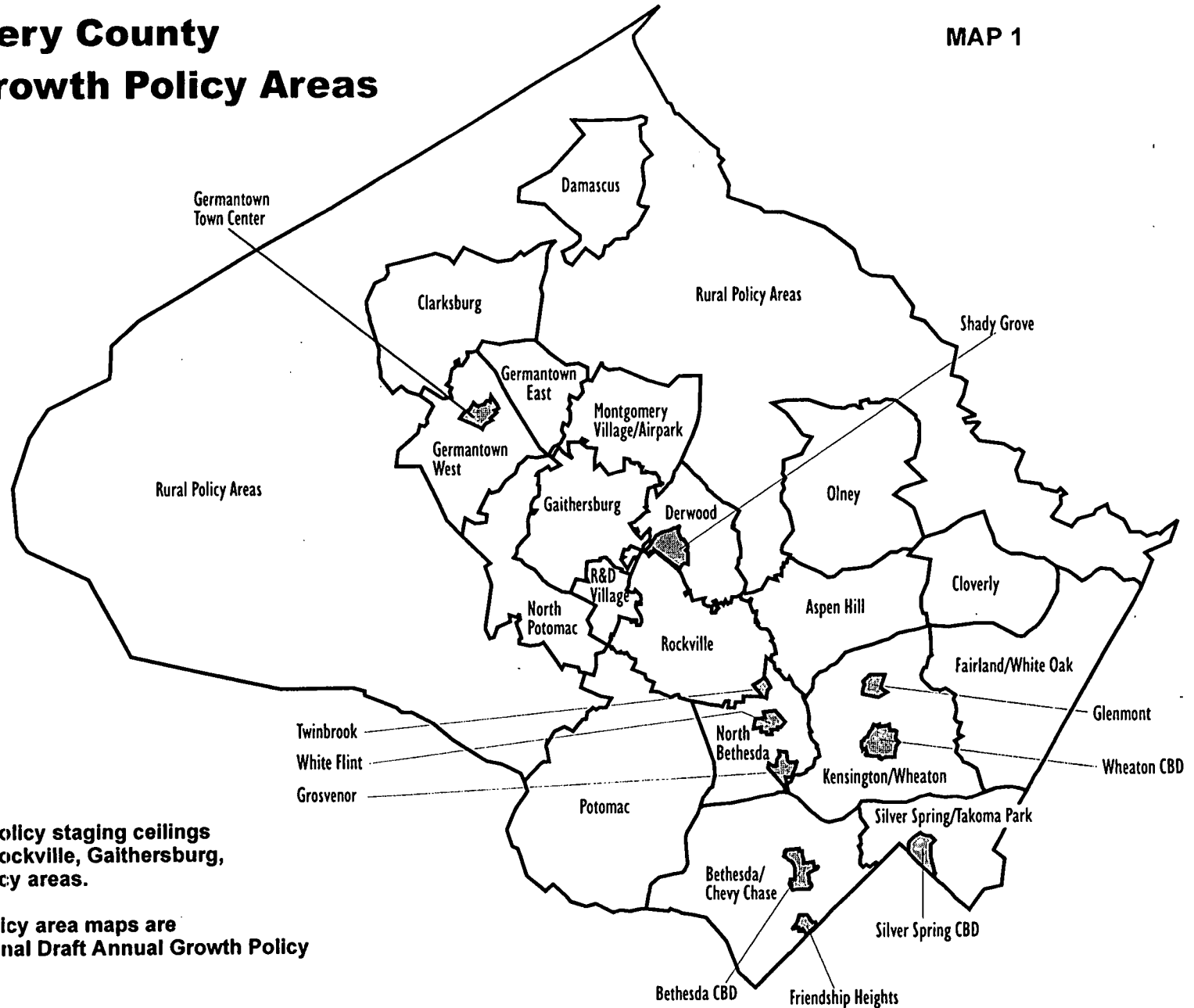
- A. **Growth of Background Traffic** - The Planning Board, with the aid of the Executive and in consultation with development and civic community representatives, must study the issue of traffic growth not already being accounted for, and if or how that growth should be accounted for in each step of the development review process.
- B. **Measuring the effect of ATMS** - The Planning Board, with the aid of the Executive and interested transportation professionals and citizens, must evaluate the effect associated with various Advanced Transportation Management System technologies, such as possible increase in intersection capacity or spreading of peak period volumes. A pilot study, perhaps funded as a public/private partnership, should be conducted in one or two selected corridors where these technologies are planned to be installed to quantify the incremental benefits of various technologies, such as automatic vehicle locators in transit vehicles, extended green time at signalized intersections for transit vehicles, real time traffic signal timing, video surveillance, and incident management. If the study identifies actions, the Planning Board should propose policy changes for Council approval, to be implemented in the Board's Policy Area Transportation Review or Local Area Transportation Review guidelines based on the study's findings.
- C. **Silver Spring Policy Area Ceiling and LATR Standard** - The Planning Board, with the aid of the Executive, must evaluate whether the special provisions to determine the policy area staging ceiling and the standards used for Local Area Transportation Review in the Silver Spring CBD Policy Area should be retained, or whether the test and methods used in other Metro Station Policy Areas should be used in that Policy Area.
- D. **APF Approval Time Limits** - The Planning Board must prepare for introduction as soon as feasible, after consulting development and civic community representatives, an amendment to the County subdivision regulations that establishes different effectiveness periods for the Board's adequate public facilities approval for different types of subdivisions.

Scheduling of items by the Planning Board under this Section may be reviewed and modified at the Board's regular work program meetings with the County Council.

# Montgomery County Annual Growth Policy Areas

MAP 1

27



Annual Growth Policy staging ceilings do not apply in Rockville, Gaithersburg, and the rural policy areas.

More detailed policy area maps are included in the Final Draft Annual Growth Policy Ceiling Element

**Table 1**  
**HOUSING**  
**Transportation Staging Ceiling Capacity Using**  
**FY 00 Transportation Ceilings**  
**January 1, 1998 Base**

Policy Areas	FY00 Net Housing Ceiling D	Pipeline As of Mar. 31, 1999 B	FY00 Net Remaining Capacity E=D-B
Aspen Hill	-4,605	2,180	-6,785
Bethesda CBD (see Note 1)	3,223	614	2,609
Bethesda/Chevy Chase	6,523	554	5,969
Clarksburg	180	1,560	-1,380
Cloverly	1,683	415	1,268
Damascus	348	475	-823
Derwood	2,157	32	2,125
Fairland/White Oak	-2,532	2,071	-4,603
Friendship Heights	1,205	1,055	150
Gaithersburg City (see notes)	989	2,859	-1,870
Germantown East	5,643	2,718	2,925
Germantown West	6,020	5,780	240
Germantown Town Center	1,849	640	1,209
Glenmont	632	132	500
Grosvenor	1,400	0	1,400
Kensington/Wheaton	3,231	492	2,739
Montgomery Village/Airpark	-4,843	354	-5,197
North Bethesda	1,790	425	1,365
North Potomac	-403	938	-1,341
Olney	1,902	1,736	166
Potomac	2,084	847	1,237
R & D Village	1,929	1,497	432
Rockville City (see notes)	672	3,988	-3,316
Shady Grove	500	0	500
Silver Spring CBD	6,123	983	5,140
Silver Spring/Takoma Park	2,419	59	2,360
Twinbrook	300	0	300
Wheaton CBD	1,523	14	1,509
White Flint	1,700	1,012	688
Totals	55,677	33,430	34,831

Note 1: Up to 1,500 housing units in net remaining capacity may be converted, upon demand by standard method non-residential development app to jobs capacity at a rate of .75 jobs for every 1 housing unit.

Rural policy areas (Goshen, Travilah/Darkestown, Rock Creek, Poolesville, and Patuxent) are not assigned staging ceilings. In these areas, subdivision applications are subject to Local Area Transportation Review as well as to relevant zoning and water and sewer constraints.

The ceilings indicate the amount of additional development that can be supported with transportation capacity available from the first four years of the anticipated FY00-05 CIP or the FY99-04 State CTP. Negative numbers indicate the amount by which the estimated level of development exceeds the ceiling.

Although the ceilings are shown for all policy areas, development in Potomac is controlled by zoning and water and sewer constraints. Development in the Silver Spring CBD is also controlled by the limits established by the Silver Spring Sector Plan. The AGP does not control development in Gaithersburg and Rockville, and deficits shown for those localities, if any, have no practical effect.

For all totals, negative numbers are treated as zero. The total net remaining capacity, then, is the total amount of capacity available for new subdivision approvals. The attached resolution approves staging ceilings, not net remaining capacity. Since net remaining capacities typically change each time a subdivision is approved, they are provided for illustrative purposes only.

d:\main\agp\fy00\final\table1a.wk4

**Table 2**  
**JOBS**  
**Transportation Staging Ceiling Capacity Using**  
**FY 00 Transportation Ceilings**  
**January 1, 1998 Base**

Policy Areas	FY00 Net Jobs Ceiling D	Pipeline As of Mar. 31, 1999 B	FY00 Net Remaining Capacity E=D-B
Aspen Hill	153	44	109
Bethesda CBD (see Note 1)	6,920	6,873	47
Bethesda/Chevy Chase	983	498	485
Clarksburg	3,999	4,774	-775
Cloverly	345	195	150
Damascus	156	174	-18
Derwood	4,393	4,190	203
Fairland/White Oak	-1,883	5,767	-7,650
Friendship Heights	5,241	4,820	421
Gaithersburg City (see notes)	11,066	16,749	-5,683
Germantown East	15,487	14,526	961
Germantown West	15,928	14,145	1,783
Germantown Town Center	7,062	4,087	2,975
Glenmont	200	0	200
Grosvenor	80	0	80
Kensington/Wheaton	3,052	352	2,700
Montgomery Village/Airpark	1,090	3,100	-2,010
North Bethesda (see notes)	5,349	4,932	417
North Potomac	125	30	95
Olney	2,237	273	1,964
Potomac	2,236	439	1,797
R & D Village	15,674	16,729	-1,055
Rockville City (see notes)	7,652	25,991	-18,339
Shady Grove	998	0	998
Silver Spring CBD	6,340	4,446	1,894
Silver Spring/Takoma Park	1,524	959	565
Twinbrook	971	0	971
Wheaton CBD	2,763	129	2,634
White Flint	3,172	187	2,985
Totals	125,196	134,409	24,434

Note 1: Up to 1,500 housing units in net remaining capacity may be converted, upon demand by standard method non-residential development applicant to jobs capacity at a rate of .75 jobs for every 1 housing unit. Therefore, up to 1,125 jobs are available in Bethesda CBD above the amount shown.

Rural policy areas (Goshen, Travilah/Darnestown, Rock Creek, Poolesville, and Patuxent) are not assigned staging ceilings. In these areas, subdivision applications are subject to Local Area Transportation Review as well as to relevant zoning and water and sewer constraints.

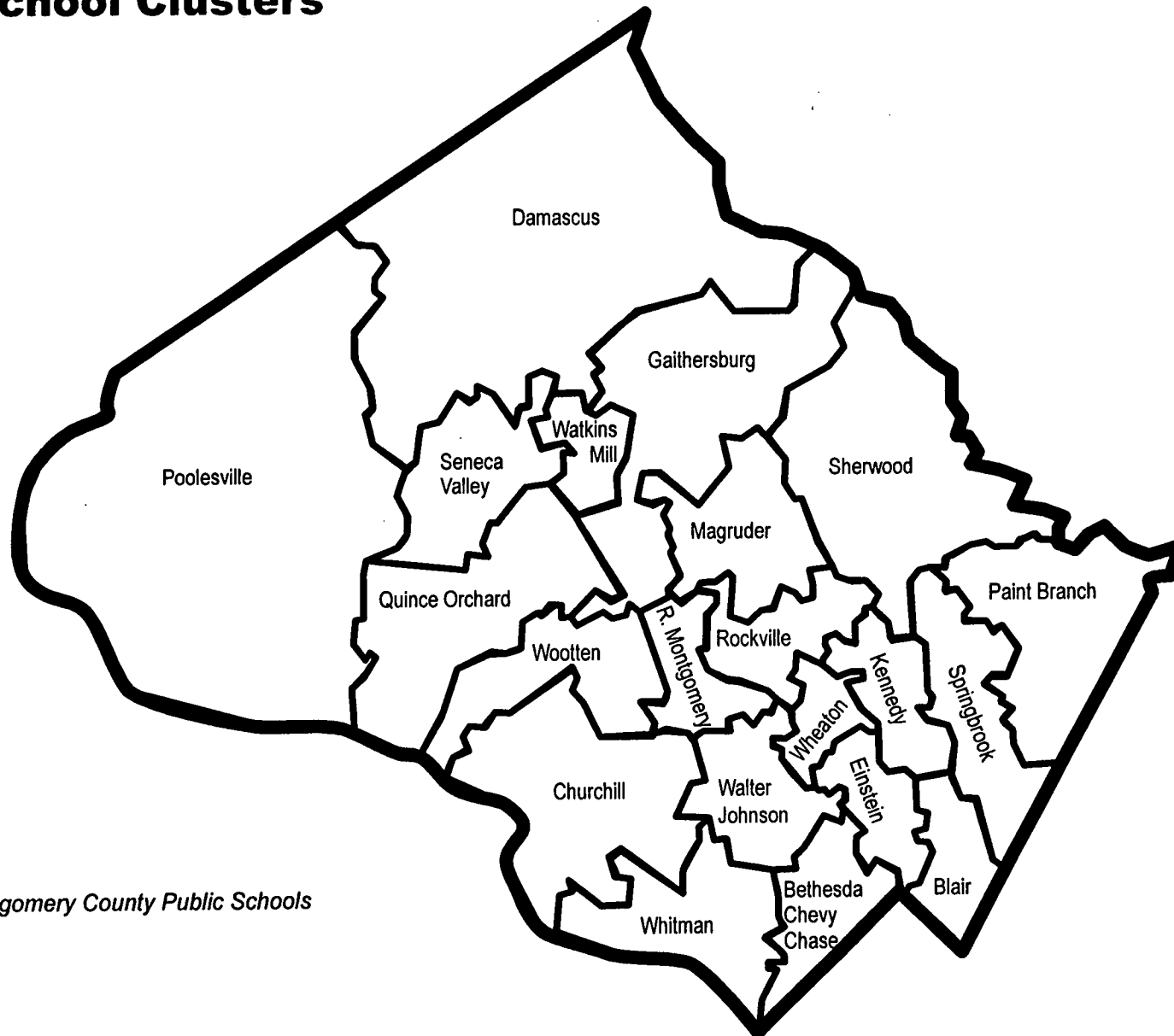
The ceilings indicate the amount of additional development that can be supported with transportation capacity available from the first four years of the anticipated FY00-05 CIP or the FY99-04 State CTP. Negative numbers indicate the amount by which the estimated level of development exceeds the ceiling.

Although the ceilings are shown for all policy areas, development in Potomac is controlled by zoning and water and sewer constraints. Development in the Silver Spring CBD is also controlled by the limits established by the Silver Spring Sector Plan. The AGP does not control development in Gaithersburg and Rockville, and deficits shown for those localities, if any, have no practical effect.

For all totals, negative numbers are treated as zero. The total net remaining capacity, then, is the total amount of capacity available for new subdivision approvals. The attached resolution approves staging ceilings, not net remaining capacity. Since net remaining capacities typically change each time a subdivision is approved, they are provided for illustrative purposes only.

# Montgomery County Public Schools High School Clusters

MAP 2



Source: Montgomery County Public Schools

# ELEMENTARY SCHOOLS BY CLUSTER

Table 5

Comparison of 2003 MCPS Projected Elementary School Enrollment to 110% of 2003 Program Capacity

## Enrollment

School Policy Areas (High School Cluster)	September 2003 Enrollment Projected by MCPS (as of 4/99)
Bethesda-Chevy Chase	2,895
Blair	5,337
Blake	2,519
Churchill	2,256
Damascus	2,594
Einstein	1,989
Gaithersburg	3,911
Walter Johnson	2,617
Kennedy	2,484
Magruder	3,020
R. Montgomery	2,164
Northwest	2,958
Paint Branch	2,432
Poolsville	724
Quince Orchard	2,720
Rockville	2,361
Seneca Valley	3,162
Sherwood	2,732
Springbrook	2,574
Watkins Mill	2,902
Wheaton	2,697
Whitman	2,144
Wootton	2,934

## Capacity

100% of Program Capacity With with BOE Requested FY00-05 CIP	Capacity Available or (Deficit)
3,105	210
5,609	272
2,706	187
2,411	155
3,191	597
2,952	963
3,990	79
2,572	-45
2,698	214
3,326	306
2,413	249
3,337	379
2,703	271
863	139
2,921	201
2,637	276
3,317	155
2,758	26
2,631	57
3,043	141
2,800	103
2,263	119
3,183	249

## AGP Test

110% of Program Capacity With with BOE Requested FY00-05 CIP	AGP Test 1: What is Number of Students Below or (Above) 110% Capacity?	AGP Test 2: If Enrollment is More than 110% of Capacity, What is an Adjacent Cluster with Sufficient Capacity?	AGP Test Result - Capacity Is:
3,416	521	----	Adequate
6,170	833	----	Adequate
2,977	458	----	Adequate
2,652	396	----	Adequate
3,510	916	----	Adequate
3,247	1,258	----	Adequate
4,389	478	----	Adequate
2,829	212	----	Adequate
2,968	484	----	Adequate
3,659	639	----	Adequate
2,654	490	----	Adequate
3,671	713	----	Adequate
2,973	541	----	Adequate
949	225	----	Adequate
3,213	493	----	Adequate
2,901	540	----	Adequate
3,649	487	----	Adequate
3,034	302	----	Adequate
2,894	320	----	Adequate
3,347	445	----	Adequate
3,080	383	----	Adequate
2,489	345	----	Adequate
3,501	567	----	Adequate

Enrollment Projections by Montgomery County Public Schools, April 1999.

Cluster Capacity based upon Board of Education's Requested FY2000 Capital Budget and Amendments to the Adopted FY99-04 CIP.

# MIDDLE SCHOOLS BY CLUSTER

Table 6

Comparison of 2003 MCPS Projected Middle School Enrollment to 110% of 2003 Program Capacity

Enrollment		Capacity		AGP Test			
School Policy Areas (High School Cluster)	September 2003 Enrollment Projected by MCPS (as of 4/99)	100% of of Program Capacity with BOE Requested FY00-05 CIP	Capacity Available or Percent of Deficit	110% of of Program Capacity with BOE Requested FY00-05 CIP	AGP Test 1: What is Number of Students Below or (Above) 110% Capacity?	AGP Test 2: If Enrollment is More than 110% of Capacity, What is an Adjacent Cluster with Sufficient Capacity?	AGP Test Result - Capacity Is:
Bethesda-Chevy Chase	1,055	933	-122	1,026	-29	Walter Johnson (390)	Adequate
Blair	2,849	2,965	116	3,261	412	----	Adequate
Blake	1,465	1,440	-25	1,584	119	----	Adequate
Churchill	1,412	1,456	44	1,602	190	----	Adequate
Damascus	1,474	1,401	-73	1,541	67	----	Adequate
Einstein	1,365	1,121	-244	1,233	-132	Kennedy (412)	Adequate
Gaithersburg	1,881	2,102	221	2,312	431	----	Adequate
Walter Johnson	1,383	1,612	229	1,773	390	----	Adequate
Kennedy	1,332	1,585	253	1,744	412	----	Adequate
Magruder	1,513	1,721	208	1,893	380	----	Adequate
R. Montgomery	941	1,076	135	1,184	243	----	Adequate
Northwest	1,257	1,252	-5	1,377	120	----	Adequate
Paint Branch	1,151	1,212	61	1,333	182	----	Adequate
Poolesville	428	451	23	496	68	----	Adequate
Quince Orchard	1,410	1,314	-96	1,445	35	----	Adequate
Rockville	1,022	1,000	-22	1,100	78	----	Adequate
Seneca Valley	1,464	1,436	-28	1,580	116	----	Adequate
Sherwood	1,150	1,409	259	1,550	400	----	Adequate
Springbrook	1,136	1,189	53	1,308	172	----	Adequate
Watkins Mill	1,509	1,657	148	1,823	314	----	Adequate
Wheaton	1,245	1,025	-220	1,127	-118	Kennedy (412)	Adequate
Whitman	1,249	1,135	-114	1,249	-1	Walter Johnson (390)	Adequate
Wootton	1,524	1,447	-77	1,592	68	----	Adequate

Enrollment Projections by Montgomery County Public Schools, April 1999.

Cluster Capacity based upon Board of Education's Requested FY2000 Capital Budget and Amendments to the Adopted FY99-04 CIP.

Enrollment and capacity of Cabin John Middle School are split 50/50 between the Churchill and Wootton clusters.

Enrollment and capacity of Ridgeview Middle School are split 80 percent in the Quince Orchard Cluster and 20 percent in the Northwest cluster.

Enrollment and capacity of Kingsview Middle School are split 50 percent in the Quince Orchard Cluster and 50 percent in the Northwest cluster.

Enrollment and capacity of Clemente Middle School are split 50 percent in the Northwest Cluster and 50 percent in the Seneca Valley cluster.

Enrollment and capacity of Farquar Middle School are split 50 percent in the Northeast Consortium and 50 percent in the Seneca Valley cluster.

The Northeast Consortium consists of the new Northeast High School, Paint Branch, and Springbrook clusters.

# HIGH SCHOOLS BY CLUSTER

Table 7

Comparison of 2003 MCPS Projected High School Enrollment to 110% of 2003 Program Capacity

Enrollment		Capacity		AGP Test			
School Policy Areas (High School Cluster)	September 2003 Enrollment Projected by MCPS (as of 4/99)	100% of Program Capacity with with BOE Request FY00-05 CIP	Capacity Available or (Deficit)	110% of Program Capacity with with BOE Request FY00-05 CIP	AGP Test 1: What is Number of Students Below or (Above) 110% Capacity?	AGP Test 2: If Enrollment is More than 110% of Capacity, What is an Adjacent Cluster with Sufficient Capacity?	AGP Test Result - Capacity Is:
Bethesda-Chevy Chase	1,553	1,500	-53	1,650	97	----	Adequate
Blair	3,195	2,802	-393	3,082	-113	Kennedy (205)	Adequate
Blake	1,734	1,592	-142	1,751	17	----	Adequate
Churchill	1,971	1,995	24	2,195	224	----	Adequate
Damascus	1,922	1,582	-340	1,740	-182	Poolesville (230)	Adequate
Einstein	1,594	1,524	-70	1,676	82	----	Adequate
Gaithersburg	2,012	1,850	-162	2,035	23	----	Adequate
Walter Johnson	1,861	1,771	-90	1,948	87	----	Adequate
Kennedy	1,577	1,620	43	1,782	205	----	Adequate
Magruder	1,989	2,030	41	2,233	244	----	Adequate
R. Montgomery	1,674	1,513	-161	1,664	-10	Rockville (338)	Adequate
Northwest	1,552	1,424	-128	1,566	14	----	Adequate
Paint Branch	1,591	1,598	7	1,758	167	----	Adequate
Poolesville	709	854	145	939	230	----	Adequate
Quince Orchard	1,704	1,831	127	2,014	310	----	Adequate
Rockville	1,312	1,500	188	1,650	338	----	Adequate
Seneca Valley	1,597	1,580	-17	1,738	141	----	Adequate
Sherwood	1,833	1,726	-107	1,899	66	----	Adequate
Springbrook	1,646	2,160	514	2,376	730	----	Adequate
Watkins Mill	2,130	1,868	-262	2,055	-75	Seneca Valley (141)	Adequate
Wheaton	1,509	1,546	37	1,701	192	----	Adequate
Whitman	1,847	1,920	73	2,112	265	----	Adequate
Wootton	2,048	2,100	52	2,310	262	----	Adequate

Enrollment Projections by Montgomery County Public Schools, April 1999.

Cluster Capacity based upon Board of Education's Requested FY2000 Capital Budget and Amendments to the Adopted FY99-04 CIP.

# Factors Used in Calculating the Total Transportation Level of Service (TTLOS)

Table 6

Including Transit Accessibility and Automobile Level of Service

POLICY AREA	Transit			Automobile			Total
	Mode Share (A)	RTA Index (B)	LOS (C)	Mode Share (D)	ACI Standard (E)	LOS (F)	TTLOS = (A)*(B)+(D)*(E)
Aspen Hill	0.11	0.38	B	0.89	0.61	C	0.585
Bethesda/Chevy Chase	0.23	0.10	A	0.77	0.73	D	0.585
Cloverly	0.06	0.83	D	0.94	0.57	C	0.585
Damascus	0.07	0.96	E	0.93	0.56	C	0.585
Derwood/Shady Grove	0.17	0.65	C	0.83	0.57	C	0.585
Fairland/White Oak	0.14	0.55	C	0.86	0.59	C	0.585
Gaithersburg City	0.16	0.70	D	0.84	0.56	C	0.585
Germantown East	0.07	0.81	D	0.93	0.57	C	0.585
Germantown West	0.12	0.82	D	0.88	0.55	C	0.585
Kensington/Wheaton	0.17	0.09	A	0.83	0.69	D	0.585
Montgomery Village/Airpark	0.14	0.76	D	0.86	0.56	C	0.585
North Bethesda	0.24	0.31	B	0.76	0.67	D	0.585
North Potomac	0.07	0.81	D	0.93	0.57	C	0.585
Olney	0.06	0.72	D	0.94	0.58	C	0.585
Potomac	0.08	0.73	D	0.92	0.57	C	0.585
R & D Village	0.15	0.70	D	0.85	0.57	C	0.585
Rockville City	0.14	0.43	B	0.86	0.61	C	0.585
Silver Spring/Takoma Park	0.37	0.00	A	0.63	0.93	E	0.585

## NOTES:

1. BETHESDA/CHEVY CHASE includes BETHESDA CBD.
2. NORTH BETHESDA includes WHITE FLINT, GROSVENOR, and TWINBROOK.
3. KENSINGTON/WHEATON includes WHEATON CBD.
4. SILVER SPRING/TAKOMA PARK includes SILVER SPRING CBD.
5. GERMANTOWN WEST includes GERMANTOWN TOWN CENTER.
6. column (A): Transit mode share and auto mode share, added together, always equal 1. Transit mode share is 1-auto mode share.
7. column (B) is Regional Transit Accessibility (RTA), an index of a policy area's transit accessibility. The scale goes from zero to one, but is inverted: the policy area with a value of zero (Silver Spring/Takoma Park) is the one with the highest regional transit accessibility.
8. column (C) shows Transit LOS (letter grade). "Transit" includes walking and biking.
9. column (D) shows resident automobile mode share from the 1990 Census Update.
10. column (E) is the Average Congestion Index (ACI) standard for automobile level of service in the policy area.
11. column (F) shows the automobile LOS (letter grade) that results from this system.

Table 7

# Local Area Transportation Review

## Congestion Standards by Policy Area

Critical Lane Volume Standard	Auto LOS Standard	Policy Area
1450	N/A	Rural areas
1500	0.535 - 0.560	Damascus Germantown East Germantown Town Center Germantown West Montgomery Village/Airpark
1525	0.561 - 0.585	Cloverly Derwood/Shady Grove North Potomac Olney Potomac R & D Village
1550	0.586 - 0.635	Aspen Hill Fairland/White Oak
1600	0.636 - 0.685	North Bethesda
1650	0.686 +	Bethesda/Chevy Chase Kensington/Wheaton Silver Spring/Takoma Park
1800	N/A	Bethesda CBD Grosvenor Silver Spring CBD Twinbrook Wheaton CBD White Flint

### Notes

Rural areas are: Clarksburg, Darnestown/Travilah, Goshen, Patuxent, Poolesville, and Rock Creek.

Potomac, R & D Village, Bethesda CBD, Friendship Heights CBD and Silver Spring CBD have special LATR rules identified in their master plans or in the Annual Growth Policy.

## MONTGOMERY COUNTY'S ANNUAL GROWTH POLICY

### Appendix to the Currently Adopted AGP

#### TABLE OF CONTENTS

	PAGE
I. Overview of the Annual Growth Policy .....	37
II. Glossary and Definitions of Key Variables .....	44
III. Technical Notes on Policy Area Transportation Review .....	51
IV. Technical Notes on Local Area Transportation Review .....	55
V. Summary Guide to AGP Approval Procedures .....	58
VII. Text of the Adequate Public Facilities Ordinance .....	70
VIII. Text of the Annual Growth Policy Legislation .....	76

*Note: This appendix is for reference; it is not part of the language adopted by the County Council in the FY 2000 Annual Growth Policy resolution. With the exception of quoted County Council legislation, this material has been developed by staff as resource material for readers.*

*The tables showing how to calculate the Development Approval Payment (page 67) and the Expedited Development Approval Excise Tax (page 68) are summary only; readers are urged to review the legislation establishing these payments for detailed information.*

*Copies of all County Council legislation are available from the Office of Legislative Information, 240-777-7910.*

## OVERVIEW OF THE ANNUAL GROWTH POLICY

### BACKGROUND

The Montgomery County Council adopted the Adequate Public Facilities Ordinance (APFO) in 1973 as part of the Montgomery County Subdivision Ordinance. The County uses the APFO to promote orderly growth by synchronizing development with the availability of public facilities needed to support that development. The Montgomery County Planning Board administers the Subdivision Ordinance and the APFO. In April of 1986, the County Council enacted legislation which established an Annual Growth Policy (AGP) for the County. Since that time, the Council has used the AGP to direct the Planning Board's administration of the County's APFO. The text of the APFO and the Annual Growth Policy legislation is included in this document.

### PURPOSE

The Annual Growth Policy legislation states that "the annual growth policy...is intended to be an instrument that facilitates and coordinates the use of the various powers of government to limit or encourage growth and development in a manner that best enhances the general health, welfare, and safety of the residents of the county." County officials use the AGP to match the **timing** of private development with the **availability** of public facilities. **The timing aspect of the AGP cannot be over-emphasized.** The AGP is designed to affect the staging of development, not the location, total amount, type, or mix of development. These latter issues are dealt with in master plans, sector plans, and the County's General Plan. The AGP has two components:

- Identifying the need for public facilities to support private development; and
- Constraining the amount of private subdivision approvals to those which can be accommodated by the existing and programmed public facilities that the County and other levels of government can produce in a given time frame.

The relative timing of development approval and provision of public facilities are what the APFO and the AGP are all about. The APFO mandates that the Planning Board not approve a preliminary plan of subdivision unless it finds that the public facilities in place or programmed in the local and state capital improvements programs will be adequate to serve the subdivision, along with all other approved development. The Annual Growth Policy tests the adequacy of four types of facilities:

- Transportation;
- Schools;
- Water and Sewerage Facilities; and
- Police, Fire and Health Services.

## TRANSPORTATION FACILITIES

In general, preliminary plan applications must pass two different transportation tests before they can be approved by the Planning Board. The two tests are:

- ***Policy Area Transportation Review*** (staging ceilings) for all plans generating more than 5 trips, and
- ***Local Area Transportation Review*** (intersections) for all plans generating 50 or more trips.

There are certain types and sizes of projects which are exempt from Policy Area Transportation Review; these are described later in this chapter. In addition, developers may provide transportation improvements, ride-sharing programs, and traffic mitigation programs to meet Policy and Local Area Transportation Review requirements.

### Policy Area Transportation Review

In 1982, the County began using Policy Area Transportation Review to evaluate the adequacy of transportation facilities. This test applies in the urban and suburban portion of the County, which is divided by the County Council into 27 "policy areas." Policy area boundaries generally are based on physical features such as rivers, parks, and freeways; on the similarity of transportation characteristics; and on administrative boundaries, such as City/County or Sector Plan area boundaries.

There are also five rural policy areas where PATR does not apply. These are Goshen, Patuxent, Poolesville, Rock Creek, and Darnestown/Travilah.

Policy Area Transportation Review determines whether there is sufficient transportation capacity in a policy area to accommodate more preliminary plan approvals. The test looks at the traffic impacts of existing development as well as approved but unbuilt new development (the development pipeline). The development pipeline includes previous preliminary plan approvals by the Montgomery County Planning Board; site plan, use permit, and record plat approvals by the cities of Gaithersburg, Poolesville, and Rockville; and building permits signed off by the Planning Department for public buildings and pre-1982 recorded lots.

Based on this policy area transportation review, the Council each year establishes jobs and housing staging ceilings for the 27 policy areas. The staging ceiling is defined as the maximum amount of development, in jobs and housing units, that can be accommodated by the existing and programmed transportation facilities serving the policy area, given an assigned level of roadway congestion. A programmed transportation facility is defined as those transportation projects for which 100 percent of the expenditures for construction are scheduled to occur within the first four years of the County or state program.

Staging ceilings are set based on a policy that permits greater traffic congestion in areas with greater transit service and usage. Thus, in areas where there is greater service and usage,

greater traffic congestion is allowed, and in areas where the transit service and usage is lower, less traffic congestion is allowed. Although every policy area has a unique combination of transit and roadway service, all policy areas must meet the same standard for overall transportation level of service, called the "total transportation level of service," or TTLOS.

Policy Area Transportation Review measures local road congestion on a policy-area-by-policy-area basis and freeway congestion on a countywide basis. It also accounts for the "upstream and downstream" effects of development on the transportation network. In other words, it measures the impact of development in one policy area on the traffic in all of the other policy areas.

In some policy areas, the amount of existing and approved development exceeds the staging ceiling set by the Council. This means that the roadway congestion in this policy area, once all approved development is built, will exceed the area's standard. In these cases, the Planning Board may not approve any new preliminary subdivision plans, except under certain special circumstances.

### **Local Area Transportation Review**

Since the mid 1970s, the Planning Board has used the Local Area Transportation Review (LATR) test to determine if a proposed preliminary plan of subdivision will cause unacceptable local traffic congestion problems at nearby critical intersections. Local Area Transportation Review is required only for subdivisions which generate 50 or more peak hour automobile trips.

In administering LATR, the Planning Board must not approve a subdivision if it finds that an unacceptable peak hour level of service will result after taking into account existing and programmed roads and transit. If a proposed subdivision causes conditions at a nearby intersection to be worse than the standard, the applicant may make intersection improvements or provide trip reduction measures to offset their traffic impact to meet LATR conditions and gain preliminary plan approval. If the subdivision will affect an intersection or roadway for which congestion is already unacceptable, then the Planning Board may approve the subdivision only if it does not make the situation worse.

Intersection congestion is measured using a method called "critical lane volume," which is the number of vehicles which can move through an intersection's "critical" lane in an hour.

Montgomery County's level of service standards for intersections vary by policy area. Like PATR, the LATR standards are based on the idea that less traffic congestion should be permitted in areas with lower transit service and usage and more traffic congestion should be allowed in areas with greater transit service and usage. For the rural policy areas, anything worse than 1450 CLV is unacceptable for LATR. For policy areas with the greatest level of transit service available, such as some Metro station policy areas, the LATR standard is 1800 CLV. Other policy areas fall somewhere between the two standards, depending on the area's level of transit service and usage. Table 7 in the Adopted FY 2000 AGP shows LATR standards by policy area.

The definition of eligible transportation projects for LATR is tighter than the definition of eligible projects for Policy Area Review. For LATR, the only programmed transportation projects to be considered available are those included in the most recent edition of the County Executive's Approved Road Program. This document includes roads programmed in the current approved local and state capital improvements programs for which:

- The County Executive has determined that construction will begin within two years; and
- In the case of the County CIP, 100 percent of the expenditures for contracts have been appropriated.

## **PUBLIC SCHOOL FACILITIES**

Since FY 89, the Council has tested public school capacity for the County's 21 high school clusters to determine if there is sufficient capacity to support additional preliminary plan approvals during that fiscal year. Each of the three grade levels - elementary, middle, and high school is assessed separately. The Council compares forecast enrollment in each high school cluster four years out to the capacity that is programmed in the fourth year of the CIP.

For APFO purposes, school capacity is considered adequate for a cluster if forecast enrollment does not exceed 110 percent of the Council funded program capacity. If sufficient capacity is not available in the immediate cluster, the Council looks to see if an adjacent cluster or clusters have sufficient capacity to cover the projected deficit in school capacity for APFO purposes. If these combined clusters do not have sufficient capacity, then schools are considered inadequate for APFO purposes and the Planning Board will be unable to approve a new preliminary plan in that cluster for the next fiscal year.

## **WATER AND SEWERAGE FACILITIES**

The APFO and the AGP consider preliminary plans to be adequately served by water and sewerage facilities if they are located in an area in which water and sewer service is presently available, under construction, or designated by the Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan. Facilities are also considered adequate if the applicant either provides a community water and/or sewerage system, or meets County Health Department requirements for septic and/or well systems.

## **POLICE, FIRE, AND HEALTH SERVICES**

The Planning Board considers police, fire, and health services to be adequate unless agency review and public commentary indicates that a local area problem will be generated by a new subdivision. If such evidence exists, a Local Area Review must be undertaken to determine

whether facility capacity at the end of the sixth year of the approved CIP is sufficient to accommodate the demand generated by the "most probable" forecast for the same year.

## **APPROVALS IN POLICY AREAS WITH NO REMAINING STAGING CEILING CAPACITY**

To balance the County's growth management policies (the APFO and the AGP) with other County policies and concerns and to protect the public interest, the Council has authorized the Planning Board to approve subdivisions in areas where there is no remaining staging ceiling capacity under certain special conditions. A summary of these conditions follows.

**Places of Worship:** The Adequate Public Facilities Ordinance exempts places of worship and residences for staff, parish halls, and additions to schools associated with places of worship from all adequate public facilities tests including Policy Area Transportation Review and Local Area Transportation Review.

**Small Scale Development - De Minimis:** The Annual Growth Policy's *de minimis* rule allows the Planning Board to approve preliminary plans that will have minor traffic impacts, even if there is insufficient staging ceiling capacity for Policy Area Transportation Review. "*De minimis* development" is defined as that which will generate 5 or fewer peak hour trips, which means that *de minimis* projects are also automatically exempt from Local Area Transportation Review. Some examples of *de minimis* development are 4 single-family detached housing units or 2,250 square feet of office space.

**Affordable Housing:** The Annual Growth Policy's special ceiling allocation for affordable housing allows the Planning Board to approve, under certain conditions, preliminary plans for affordable housing in a policy area with insufficient staging ceiling capacity for Policy Area Transportation Review. These affordable housing developments, however, must pass all other public facilities tests including Local Area Transportation Review.

The development must be certified by the Housing Opportunities Commission (HOC) as having met the definition of affordable housing, and the owner of the development must enter into an agreement with HOC to maintain the occupancy requirements for at least 15 years. An affordable housing development is defined as a housing development which is either owned by the Housing Opportunities Commission or by a partnership in which HOC is the general partner; or, a privately-owned housing development in which 20 percent of the units are occupied by households at or below 50 percent of the area median income, adjusted for family size, or 40 percent of the units are occupied by households at or below 60 percent of the area median income, adjusted for family size.

For projects owned or controlled by HOC, the Planning Board may approve up to a total of 125 units in a policy area in a fiscal year. In privately owned affordable housing developments, the Planning Board may approve up to 300 units in a policy area in a fiscal year. In a policy area with both HOC owned and controlled developments and privately owned affordable housing developments, the Board may approve a total of 300 units in a fiscal year.

The special ceiling allocation for affordable housing does not apply in policy areas that have been in a housing moratorium for a long time and have already had a large number of units approved under the provision.

**Previously-Recorded Lots ("Loophole" Properties):** As discussed earlier, the AGP provides guidelines to implement the Adequate Public Facilities Ordinance (APFO), which is part of the County's subdivision regulations. Previously-recorded lots have traditionally been exempt from AGP requirements implemented after the subdivision was approved. In 1989, there was increasing concern that these "loophole" properties (lots recorded prior to 1982 or recorded in conformance with a preliminary plan approved prior to 1982) had been approved under a less stringent APFO transportation test (or none at all). In response, the Council passed Bill 25-89, which requires non-residential lots approved prior to 1982 to pass Local Area Transportation Review prior to building permit, but exempts them from Policy Area Transportation Review until July 2001, if they registered with the Planning Board before July 1, 1990. There are approximately 1,340 "loophole" properties covered by Bill 25-89. Previously recorded residential lots continue to be exempt from APFO controls.

**Alternative Review Procedures:** Two alternative review procedures were implemented in FY94 to spur certain kinds of development: *the Alternative Review Procedure for Metro Station Policy Areas* and *the Alternative Review Procedure for Limited Residential Development*. A third alternative review procedure, *the Alternative Review Procedure for Expedited Development Approval*, popularly known as "Pay-and-Go," was approved on November 1, 1997 and went into effect in February, 1998.

*The Alternative Review Procedure for Metro Station Policy Areas* is intended to encourage development in areas where transportation infrastructure already exists -- namely, certain compact policy areas atop Metro stations. A project using this procedure is not required to make the improvements normally required by Local Area Transportation Review. In exchange, the project must make a payment to the County (based on square footage) and join and support a transportation management organization.

A stimulus to the housing construction industry, *the Alternative Review Procedure for Limited Residential Development* permits up to 300 units of housing to be approved each year in most policy areas. These projects need not meet the requirements of either Policy Area or Local Area Transportation Review. In exchange, the developer agrees to an accelerated construction schedule and to make a payment (the "development Approval Payment") to the County. This procedure is currently scheduled to sunset on October 31, 2001 and does not apply in areas that have been deeply in deficit for transportation facilities for long periods of time. Because of this, for FY 2000, the procedure is not available in Aspen Hill, Fairland/White Oak or Montgomery Village/Airpark. It is likely that the procedure will not be available in North Potomac in FY 2000, given the length and depth of the deficit in transportation facilities on that policy area.

*The Alternative Review Procedure for Expedited Development Approval* permits non-residential subdivisions to be approved without meeting the requirements of either Policy Area Transportation Review or Local Area Transportation Review if the developer agrees to pay a tax, called the "Expedited Development Approval Excise Tax," and agrees to begin construction within two years of the recording of the plat. This procedure is currently scheduled to sunset on

October 31, 2001. This procedure was initially available to residential development but this option was removed as of May 12, 1998.

The County Council also requires the Planning Board to systematically track and report on the traffic impacts of development approved under the procedures. The Council can then set priorities for spending the revenues from the fees and for addressing the traffic impacts of the approved projects.

## **STAGING CEILING FLEXIBILITY**

The Annual Growth Policy provides an option for preliminary plan applications which would exceed the Policy Area staging ceiling. The developer can receive preliminary plan approval if he or she agrees to fully mitigate the traffic impacts of the project. Currently, there are three types of staging ceiling flexibility for Policy Area Transportation Review:

- Full-cost developer participation;
- Development district participation; and
- Transferable development capacity (Silver Spring CBD only).

Each enable a preliminary plan to pass Policy Area Transportation Review, and also require the plan to pass all other public facilities tests including Local Area Transportation Review.

**Full-Cost Developer Participation:** Full-cost developer participation allows the Planning Board to approve a preliminary plan in areas where there is insufficient staging ceiling capacity when the applicant agrees to pay for the construction of a public facility project such as a road, or to provide the full cost of a transit, paratransit, or ride-sharing program. The public facilities project has to add as much capacity to the transportation system as the proposed development will generate. If the developer, for a period of 12 years, provides a traffic mitigation program, the program must reduce the number of peak-hour, peak-direction automobile trips by as many trips as would be generated by the proposed development.

**Development District Participation:** At the initiative of one or more property owners, development districts may be created by the County Council as a way to fund needed public facilities. These districts have the advantage of allowing private developers to finance infrastructure improvements over a much longer term. They also permit public-private partnerships in building needed infrastructure.

**Transferable Development Capacity (Silver Spring CBD):** The development capacity associated with existing buildings or approved but not yet constructed subdivision may be transferred to a not-yet-approved subdivision under certain conditions. Owners of existing buildings may sell the development capacity associated with that building up to 5 years after demolishing the building. This option is available on the Silver Spring CBD policy area.

## GLOSSARY and DEFINITIONS of KEY VARIABLES

In some cases, terms used in the Annual Growth Policy were developed specifically to express a concept or a procedure that is unique to Montgomery County. In other cases, standard terms (such as "job") have a very specific meaning when used in the AGP. The following glossary was compiled to give more of an explanation to these terms than is possible in the AGP resolution.

Following the glossary is a discussion of key variables used in the calculation of transportation staging ceilings and in Local Area Transportation Review.

### General Definitions

**Adequate Public Facilities Ordinance (APFO):** Chapter 50, Section 35(k) of the Subdivision Ordinance requires the Planning Board to make a finding that existing or programmed public facilities are adequate before they can approve a preliminary plan of subdivision.

**Alternative Review Procedures:** These include 1) a provision permitting development in Metro Station Policy Areas without making intersection improvements, provided the developer pays a fee, joins a transportation management organization, and other requirements; and 2) a provision permitting up to 300 units of housing to be developed in certain policy areas without making roadway or intersection improvements in exchange for paying a fee and other requirements, and 3) a provision permitting non-residential development to meet its roadway and intersection improvement conditions by paying an excise tax.

**Approved Road Program (ARP):** The County Executive publishes an Approved Road Program which lists all roads programmed in the current adopted CIP and the Maryland CTP for which: (A) in the case of the CIP, 100 percent of the estimated expenditures for construction costs have been appropriated; and (B) the County Executive has determined that construction will begin within two years of the effective date of the Approved Road Program. Roads required under Section 302 of the charter to be authorized by law are not considered programmed until they are finally approved in accordance with Section 20-1 of the Code. The ARP constitutes the list of roads which can be used when conducting a Local Area Transportation Review.

**Capital Improvements Program (CIP):** A document recommended each year by the Montgomery County Executive and adopted by the County Council which contains a six-year program for capital expenditures to expand and renovate Montgomery County's public facilities.

**Ceiling Element:** The Annual Growth Policy document adopted by the County Council by July 15 of each year. It contains a review of existing and programmed public facilities, including setting transportation staging ceilings for each of 27 policy areas and testing elementary, middle, and high schools in each school cluster for adequacy.

**Consolidated Transportation Program (CTP):** The transportation capital improvements program annually adopted and administered by the State of Maryland. For the purposes of conducting the Annual Growth Policy analysis, the CTP is considered "adopted" on the last day

each year of the session of the Legislature, usually during the second week in April. In the event there is the possibility of a veto of the Legislature's actions by the Governor, then the appropriate date of adoption should be the last day that the Governor has to exercise his veto. In the event that the Legislature adds or deletes projects during the legislative session from the annual CTP document published by the MDDOT, usually in January, then official correspondence from the MDDOT acknowledging the intended changes to the CTP constitutes the official amendment. However, in order to use such changes in the Policy Area Review for the Staging Ceilings the correspondence needs to indicate that an added project would have 100 percent of its construction expenditures scheduled by the fourth fiscal year of that CTP. If appropriate, that correspondence can also be the basis of amending the Approved Roads Program.

**De Minimis Development for Transportation:** Small-scale development that generates up to five peak hour trips may receive subdivision approval without being subject to either Policy Area Transportation Review or Local Area Transportation Review.

**De Minimis Development for Schools:** De minimis development is that which will have minor school impacts. The County's policy is to avoid over-regulating low impact development. For public school analysis purposes, the Planning Board can approve a preliminary plan of 10 or fewer single-family units, 17 or fewer townhouses, or 40 or fewer apartment units even if there has been a legislative determination that a geographic area does not have adequate public school capacity.

**Development Pipeline:** The total amount of approved-but-unbuilt development is called the pipeline of approved development. It is subtracted from the adopted staging ceilings to determine the Net Remaining Capacity. It consists of all building completions as of January 1 of the previous year and the unbuilt portion of the following:

- Preliminary plans approved by the Planning Board,
- WSSC sewer connections for residential projects,
- Public buildings at the issuance of building permit,
- Preliminary plans approved by Gaithersburg,
- Preliminary plans approved by Rockville,
- Record plats approved by the Town of Poolesville, and
- Building permits for "Loophole" properties

**Freeways:** Policy Area Transportation Review tests freeways on a countywide basis. The freeway standard is LOS D/E (0.90). The freeway network in Montgomery County consists of I-270 (including the spurs), I-370, I-495, and the Clara Barton and Cabin John Parkways.

**Housing Units:** Housing units may be single-family detached, single-family attached, garden apartments, and high rises. Each housing unit is counted as one unit for staging ceiling purposes.

**Jobs:** When the AGP counts "jobs," it is referring to the total estimated number of workers which can be accommodated in non-residential structures. It includes existing workers in addition to workers who could be accommodated in vacant or yet to be built structures. It does not include construction workers or self-employed people working out of residential areas. It is

calculated by multiplying a building's gross square footage by a standard ratio of square feet per job. Job estimates for office buildings are derived from a 1989 study conducted by the Research Division of the Montgomery County Planning Department. Job ratios for the next five categories were derived from a 1984 survey conducted by the Research Division. The job estimates for research and development, church, mini-warehouse, and auto repair are staff decisions. Montgomery County Public Schools provided the job estimates for schools. When the Montgomery County Planning Board limits the number of jobs for a project as a condition of its approval, that job limit is used as the number of jobs that the project adds to the pipeline.

#### **Square Footage Per Employee Multipliers:**

Office:	225	square feet per job in the Bethesda CBD, Bethesda/Chevy Chase, Grosvenor, Kensington/Wheaton, North Bethesda, Silver Spring CBD, and Silver Spring/Takoma Park, Twinbrook, Wheaton CBD, White Flint policy areas (down-county)
	250	square feet per job in all other areas of the County
Medical Offices:	400	square feet per job
Mixed Use Planned Development Zone:	350	square feet per job
Research & Development:	350	square feet per job
Retail:	400	square feet per job
Industrial/Warehouse:	450	square feet per job
Other: (hospital, hotel, daycare, etc.)	500	square feet per job
Church:	5	jobs
Mini-Warehouse:	1	job
Elementary School:	50	jobs
Middle School:	70	jobs
High School:	110	jobs
Auto Repair with no Sq. Ft. Available:	1	job per bay

**Level of Service Standards:** Whether or not a public facility is "adequate" depends on the experiences of users of that facility. Level of Service (often abbreviated LOS) is the term used in the AGP to describe the quality of that experience. Users with a very positive experience are said to enjoy a "high level of service." The level of service standard is the breakpoint between adequate and inadequate levels of service.

**Loophole Properties:** Lots recorded prior to 1982 or in conformance with a preliminary plan approved prior to 1982 and recorded under the provisions of Bill 25-89 are called "Loophole Properties." Less stringent transportation tests are required of Loophole Properties.

Non-residential Loophole Properties must pass Local Area Transportation Review at building permit but are exempted from Policy Area Transportation Review.

**Metro Station Policy Areas:** Generally, one of the compact policy areas atop Metro stations. Creation of these policy areas enables the County to pursue a goal of encouraging development in areas well-served by existing transit facilities. For AGP purposes, "metro station policy area" also has a more specific meaning -- it is a policy area where the Alternative Review Procedure

for Metro Station Policy Areas is available to prospective developers. These policy areas are: Grosvenor, White Flint, Twinbrook, and Bethesda CBD. Use of the Alternative Review Procedure in the Metro station policy areas of Friendship Heights, Glenmont, Wheaton CBD, and Shady Grove awaits creation of transportation management organizations to serve these areas.

**Mode Share:** Modes of travel include driving alone, carpooling, transit, bicycling and walking. A mode share is the percentage of residents or workers who use a particular mode of travel.

**Moratorium (Subdivision):** Areas where public facilities are inadequate to support additional subdivision approvals are said to be in subdivision moratorium. The Planning Board may not approve additional development in these areas except under certain circumstances. These include the ceiling flexibility provisions, the special ceiling allocation provisions, and the alternative review procedures of the AGP. De minimis development is also exempt from subdivision moratoria.

**Net Remaining Capacity:** The amount of development (expressed in terms of housing units or jobs) that can be approved by the Planning Board during the current fiscal year. When the pipeline is subtracted from the staging ceiling, what is left is the net remaining capacity.

**Peak Hour Trips:** The impact of a proposed development on the transportation network is expressed as the number of peak hour trips the development will generate. For Policy Area Transportation Review, this is the number of vehicle trips generated by the development during the busiest hour of the afternoon. Generally, this number is derived using standard trip generation rates for buildings based upon location, size, and type of use.

**Policy Element:** The AGP document that contains analyses of policy questions related to growth management and administration of the adequate public facilities ordinance. Prepared every other year (calendar years ending in an odd number), the staff draft policy element is made available in the spring, with Planning Board and County Executive review during the summer and County Council consideration in October.

**Preliminary Plan:** The stage in the development review process at which Local Area Transportation Review and Policy Area Transportation Review are applied to subdivisions.

**Programmed Transportation Facility:** A capital facility project which is contained within the adopted County Capital Improvements Program, the State Consolidated Transportation Program, or program of Rockville or Gaithersburg, such that 100 percent of the expenditures for construction or operation are estimated to occur within the first four years of the applicable program. Where such road project either crosses several policy areas or will be built over a period of time in identifiable segments, the appropriate sections will be identified by the Planning Board to: (1) locate the segments in the appropriate policy areas, and (2) specify whether the segments meet the basic criteria for a programmed facility.

**Record Plat:** A preliminary plan of subdivision which has been approved for recordation by the Montgomery County Planning Board or is already a recorded plat in the official Montgomery County land records.

**Regional Transit Accessibility:** measures how well the transit network connects jobs and houses. The more houses and jobs that can be accessed by transit in the least time, the better the regional transit accessibility value.

**Policy Area:** A geographic subarea of the County, delineated by the Planning Board, as adopted by the Council in the Annual Growth Policy for the purpose of staging analysis and the establishment of transportation staging ceiling capacities. (See Map 1.)

**Queue:** The list of development projects awaiting approval. Allocations of new development capacity are done on a first-come, first-served basis. After projects awaiting capacity are registered with the Planning Department, they are said to be "in the queue."

**Rural Policy Area:** One of the five policy areas where Policy Area Transportation Review does not apply. Development in these areas is constrained by zoning and Local Area Transportation Review. Rural policy areas are Darnestown/Travilah, Poolesville, Patuxent, Goshen and Rock Creek.

**School Capacity:** For Annual Growth Policy purposes, school capacity is measured as 110 percent of Council-funded program capacity which includes space allocations for the regular program as well as special programs (i.e., special education and Head Start). This capacity measure does not count relocatable classrooms in computing a school's permanent capacity. Currently, the Council-funded regular program capacity is a class size is as follows:

Grade	Effective Classroom Capacity
half day kindergarten	44
full day kindergarten	22
grades 1-6	25
secondary grade	22.5

**School Enrollment Forecasts:** MCPS projections are prepared in the fall of every year and are made for each of the upcoming six years and for two later years beyond the sixth year. The actual September enrollment at each school is used as the base on which the projections are developed and are used in the draft AGP school analysis tables.

MCPS uses the cohort survivorship model to forecast future enrollment. This method is used widely throughout the country and stands out as the most practical and consistently accurate forecasting approach. The cohort survivorship model, as applied by MCPS planners, involves the calculation of the number of students that can be expected in a particular grade at a future date, given the number of students now enrolled in the prior grade. Judgments are made about past trends and about migration, program changes, transfers in and out of the school service area, and other miscellaneous factors. Through the tracking of subdivision construction, student yields from subdivisions are applied to expected enrollment. Beyond the time of known subdivision and building activity, MCPS planners rely on forecasts prepared by the Montgomery County Planning Department and their demographic model of County population up to 20 years in the future.

One of the most difficult components of the enrollment forecast is predicting kindergarten enrollment. MCPS planners review records of resident births compiled by the Maryland Center for Health Statistics. Births in nearby jurisdictions to mothers who reside in Montgomery County are included in these records. Birth data is at both the Countywide level and the Census tract level. For the small geographic level of an elementary school service area, birth data is not available. Also adding to the difficulty in forecasting is the common occurrence of families moving after a child is born, but before the child enrolls in school.

**Special Ceiling Allocation:** A limited exception to Policy Area Transportation Review, the special ceiling allocation for affordable housing acts to curb possible negative impacts of the APFO on the supply of affordable housing. Under certain circumstances, projects which create a specified component of affordable housing may be approved in policy areas in subdivision moratorium. The AGP once contained a special ceiling allocation for health care facilities, but that provision was never used and was removed as part of 1995-1997 AGP Policy Element.

**Staging Ceiling:** A total amount of development expressed in terms of housing units and jobs that has been determined by the Montgomery County Council to be balanced appropriately, on the basis of an areawide average, with the existing and programmed transportation facilities for the area.

**Staging Ceiling Flexibility:** One option for applications which exceed policy area transportation staging ceilings is to mitigate the traffic impact of a project. Developer participation may be "Full-Cost" or "Development District" depending upon the type of development:

- **Full-Cost Developer Participation** permits the Planning Board to approve preliminary plans in moratorium areas when the applicant agrees to pay for the construction of public facilities. The public facilities project must add as much capacity to the transportation system as the proposed development will need. If the developer, for a period of 10 years, provides a traffic mitigation program, the program must reduce the number of peak hour, peak direction automobile trips by as many trips as would be generated by the proposed development.
- **Development District Participation** allows the Planning Board to approve one or more preliminary plans in moratorium areas when the applicants and the County agree to fund the needed public facilities through a development district.

**Staging Ceiling Transferability:** In the Silver Spring CBD, developers can acquire the development capacity needed for their subdivision to be approved by purchasing it from an existing building (which is then demolished) or from another approved-but-unbuilt subdivision.

**Total Transportation Level of Service:** Also called TTLOS, this number reflects the levels of service on all auto and non-auto modes of travel in a policy area. It has four components: transit service, transit usage, auto usage, and auto congestion. The TTLOS standard (C-) is the same in every policy area. TTLOS is calculated so that areas with greater transit service and usage are permitted greater auto congestion and usage.

**Traffic Zone:** For traffic analysis purposes, the County is divided into approximately 300 traffic zones. Zone boundaries are selected so that traffic modelers can easily characterize the transportation usage and service in that zone. Policy areas are made up of one or more traffic zones.

**Transportation Management Organization:** TMOs are public or private non-profit organizations created to manage or coordinate programs that reduce the demand for road capacity during the peak period, including alternative work hours programs, carpools, vanpools, subsidized transit passes, preferential parking, and peak period parking charges.

## NOTES ON POLICY AREA TRANSPORTATION REVIEW

Policy Area Transportation Review (PATR) is the process used to determine the development supportable by the capacity of the transportation infrastructure, subject to other County goals and objectives.

The transportation system is a multifaceted structure composed of a number of different modes. Three modes are significant for local travel: automobile, bus and rail transit, and human-powered transport such as the pedestrian and bicyclist. In the TRAVEL/2 model system, the basic characteristics of each mode are identified in order to estimate their usage given a set of conditions. Travel demand characteristics are determined to a great deal by the availability and quality of transportation supply, while supply characteristics, though to a large extent fixed, are in part dependent upon demand.

### *Street and Highway Capacity*

Network capacity is measured in vehicles per hour per lane. The better the geometric design of the facility, the higher the capacity. In the TRAVEL/2 model, the street and highway network is analyzed as consisting of two parts, the road segment and the intersection.

- **Road Segment Capacity** - the capacity of the road segment in the modeling analysis is defined as the number of vehicles per hour per lane that could be accommodated on a road segment if there were no intersections considering the geometrics of the facility and traffic characteristics. "Accommodated" is generally taken to be the number of vehicles per hour at which the travel time is twice what it is in uncongested conditions. This point is also called midpoint of Level of Service E. Volumes are not necessarily less than "capacity" however. After volumes exceed capacity, the travel time on a facility increases exponentially with traffic. Road segment travel time is estimated from uncongested travel time, traffic volume, and the capacity. Generalized road segment capacities are given below:

Road Type	Typical Traffic Stream Capacities
1. Freeway	1800 - 2100 vehicles/hour/lane
2. Major Highway	1400 - 1800 vehicles/hour/lane
3. Arterial/Business/Industrial	1100 - 1500 vehicles/hour/lane
4. Residential Primary	800 - 1200 vehicles/hour/lane

- **Intersection Capacity** - In TRAVEL/2, intersection capacity is analyzed using the Critical Lane Volume technique and then by allocating traffic signal green time in proportion to volume per lane on the intersection legs. Stopped delay at the intersection is estimated for each turning movement using approach volume, intersection critical lane volume, and estimates of signal phasing and timing.
- **Transit Accessibility and Availability** - Supply characteristics of Transit, including the Ride-On, Metrobus, MARC, and Metrorail services, are measured in the TRAVEL/2 model in order to determine the proportion of trips taking transit.

- **Pedestrian and Bicyclist Environment** - The quality of the pedestrian and bicyclist environment is used in the TRAVEL/2 model to determine the peak period mode shares for the walk and bike modes for both work and non-work trips, as well as to help determine the proportion of people who walk to transit. Several measures are used, including the ratio of sidewalk miles to street miles, the density of housing and employment, and the distance between locations.

### ***PATR Travel Demand Analysis***

Travel demand analysis is composed of five parts, which are described below. There are a number of variables other than those discussed below which are used in the TRAVEL/2 model system.

- **Trip Generation** - This is the process whereby the number of trips originating in or destined for any area (a traffic zone) is determined. At the home end of all trips originating at or destined for a residence, trip generation is a "cross-classification" procedure, where the number of trips are a function of the age of the tripmaker, the number of members of the tripmaker's household size, and the type of housing (single or multiple family). At the employment end of work trips, trip generation is estimated by a regression equation of the number of employees by employment type (Office, Retail, Industrial, Other). At the non-home end of other (non-work) trips, the number of trips generated is determined by a regression of the number of retail employees and size of the population. The TRAVEL/2 model simulates PM peak period person trips for the following purposes:

#### **Trip Purposes in TRAVEL/2 - PM Peak Period Model**

Work to Home (unlinked)	Work to Other to Home (linked)
Other to Home	Home to Other
Other to Other	Home to Work
Large Trucks (vehicles)	Small and Medium Trucks (vehicles)

- **Destination Choice** - This stage, also called spatial trip distribution, determines the proportion of trips in each origin zone which will go to each other zone for the trip purposes defined above. The probability of going to a zone depends on the attractiveness of that zone. Attractiveness is modeled using a "Gravity" model, wherein the number of trip attractions generated in that zone is compared with the number in all other zones, and the travel time to that zone is compared with the travel time to all other zones. The destinations are assigned to most closely match the observed distribution of travel times.
- **Departure Time Choice** - This step, sometimes referred to as peak hour factoring or temporal trip distribution, estimates the proportion of trips travelling in the peak hour given the percent delay on the road network between a given origin- destination pair. The model used in TRAVEL/2 is "Binomial Logit". Departure time choice is estimated separately for work and non-work trips.

- **Mode Choice** - This component estimates the proportion of trips between a given origin-destination pair which will take a specific mode. The form of mode choice model used in TRAVEL/2 is "Multinomial Logit." Eight modes have been defined in the TRAVEL/2 model and they are estimated separately for work and non-work trips.

#### **Modes Modeled in TRAVEL/2 - PM Peak Period Model**

Transit (Walk Egress)	Auto 1 Occupant (SOV)
Transit (Auto Passenger Egress)	Auto 2 Occupant (HOV-2)
Transit (Auto Driver Egress)	Auto 3+ Occupants (HOV-3)
Walk	Bicycle

- **Route Choice** - The last part of demand estimation is the assignment of the set of roads and transit routes which are used between each origin-destination couplet. The assignment of vehicle trips to the road network is an iterative process, solved using a procedure called "Static User Equilibrium Assignment." The fundamental principle of user equilibrium states that travel time on all chosen routes between each origin and destination is equal, and less than the time along unused routes. Transit assignment is performed using the method of "Optimal Strategies." The principle underlying optimal strategies is that tripmakers will minimize their total weighted travel time. The components of transit travel time considered include access and egress time, boarding and waiting time, and in-vehicle time. Access and egress time are more onerous than in-vehicle time, and boarding and waiting time are even less desirable than access and egress time.

#### ***PATR Levels of Service***

The acceptable "level of service" (often abbreviated LOS) is a primary factor in the setting of policy area transportation staging ceilings. The level of service is a description of facility's performance given the demands being placed upon that facility. In Montgomery County, level of service is measured on a nationally-accepted scale that ranges from "A" to "F" to describe the quality of traffic flow on roadways and indicates relative degrees of congestion.

**Level of Service Measures:** There are a number of possible measures of level of service; those currently used to set policy area staging ceilings are discussed below. For Policy Area Transportation Review, the measurement system used is called the total transportation level of service, or TTLOS. TTLOS has four components: transit level of service, transit usage, auto level of service, and auto usage.

- **Transit Level of Service:** This measure includes transportation by bus, rail, walking and bicycling. The transit level of service is determined using a measurement system called the *Regional Transit Accessibility Index*. Regional Transit Accessibility is how well the transit network connects jobs and houses. The more houses and jobs that can be accessed by transit in the least time, the better the Regional Transit Accessibility Index value. A policy area's regional transit accessibility score is a number between zero and one. For consistency with the auto level of service measure, zero is the "best" score and one is the "worst" score.

Each traffic zone is assessed for two things: 1) the accessibility by transit from houses in that zone to jobs in the region, and 2) the accessibility by transit from houses in the region to jobs in that zone. The results are weighted by the number of houses and jobs, respectively, and averaged to obtain a policy area score. Travel times are estimated for the p.m. peak period using the TRAVEL/2 model.

- **Auto Level of Service:** PATR measures auto level of service using what is called the *Average Congestion Index* (ACI). To compute the ACI, PATR first determines the ratio of traffic volume to roadway capacity for each road segment. For example, a 0.6 volume-to-capacity ratio would indicate that traffic is at 60 percent of capacity. This ratio is weighted by the vehicle-miles-of-travel on that segment and averaged with other segments in the policy area. In the same way, ACI is used to measure the freeway level of service. The ACI measure works well in areas with more road segments but not as well in small areas such as CBDs and sector plan areas, where other techniques are used. Like Regional Transit Accessibility, the ACI is also an index with values between zero and one with zero being the least congested and one being the most congested.

*Note: Staging ceilings in the Silver Spring CBD are set using a method established in the Silver Spring CBD Sector Plan.*

- **Auto and Transit Usage:** Policy Area Transportation Review weights the transit and auto levels of service by usage, or mode share. The auto mode share is forecast from Census and Census Update Survey data. Recent auto mode shares have ranged from 63 to 94 percent. If the auto mode share is 75 percent, the transit mode share would be 25 percent.

**Level of Service Standards:** The total transportation level of service standard for every policy area is 0.585, which is considered a C-. This does not mean that the total transportation level of service in each policy is 0.585. In some policy areas, the TTLOS is worse than the standard. Those policy areas are in subdivision moratorium, and the depth of the moratorium indicates how much worse than the standard that policy area's level of service is.

For freeways, the level of service standard is 0.9, or D/E. This is characterized by stable flow and speeds of about 40 miles per hour.

## NOTES ON LOCAL AREA TRANSPORTATION REVIEW

Local Area Transportation Review (LATR) is the process used to determine if a proposed development will produce detrimental impacts on local intersections that are beyond the capacity of existing and programmed public facilities. The latest *Local Area Transportation Review Guidelines*, adopted April 1998, is available as a separate publication from the Planning Department.

### *LATR Travel Demand Analysis*

The travel demand analysis for LATR is similar in structure, but different in application to that performed for PATR. The demand analysis includes the stages of trip generation, trip distribution, and route choice, but due to the nature of the system under study, they are implemented differently.

- **Trip Generation** - Trip generation rates represent the number of vehicle trips both to and from a development per unit of development activity. They are used in LATR in order to assess the impact of a particular development on the nearby transportation network. For LATR, the Planning Department uses peak hour trip rates based on studies of sites within Montgomery County for office, fast food restaurants, and most retail and residential uses. Where data for Montgomery County is not available, the Institute of Transportation Engineers' *Trip Generation* report is used. In some areas of the County, trip generation rates outside these ranges are established in the sector plan or through other procedures to reflect factors specific to an area or site. Trip generation is conducted for the AM or PM Peak Hours, and thus no departure time choice step is required. Mode choice is also implicit in trip generation rates, which are measured for vehicles. Adjustments to trip rates for sites depending upon expectation of transit use may be made.
- **Trip Distribution** - At the site level, trip distribution amounts to determining the directional split of trips approaching and leaving a specific site, and determining the number of trips entering and exiting a site.
- **Route Choice** - The assignment of traffic is performed using engineering judgement. As intersections and road segments approach capacity, trips are assumed to take alternate routes, which amounts to an approximation of the User Equilibrium procedure used in PATR.

### *LATR Traffic Counts*

Traffic counts are an essential data element in determining existing and projected conditions for conducting LATR. Counts are also used to estimate and establish the validity of key parameters in the TRAVEL/2 model used for PATR. Peak hour traffic counts for any location vary from day to day, week to week, and seasonally. In general, traffic counts made during the summer months should not be used since traffic during this time of year is lower than normal. Traffic counts taken on holidays, or on the day before or after holidays should not be used due to their non-typical characteristics. Counts that are older than six months should be adjusted to reflect development that has been completed and occupied since the count was made. Traffic

counts older than three years should not be used because of potential changes in traffic patterns and growth in traffic. The Planning Department staff reserves the right to require new counts to be made if there is reason to believe that a count is flawed.

### ***LATR Levels of Service***

LATR determines levels of service at intersections near proposed development. As with PATR, LATR has both a level of service *measure* and a level of service *standard*.

- **Measure:** The level of service for an intersection subject to LATR is determined using the Critical Lane Volume (CLV) technique. This method of analysis, widely used nationally, attempts to determine how close to capacity an intersection is operating. The capacity of the intersection is the volume of all of the maximum conflicting movements.
- **Standard:** Like PATR, LATR standards are set so that greater auto congestion is permitted in policy areas with greater transit availability and use. The rural areas have the most stringent level of service standards, which is a CLV of 1450. For policy areas with established staging ceilings, the most stringent level of service standard a CLV of 1500. This standard applies in policy areas with little transit service, such as Damascus and the Germantown policy areas. The least stringent LATR standard (1800 CLV) is in effect in metro station policy areas, all of which have very high levels of transit service.

- **Exceptions:** In Silver Spring, development is reviewed in accordance with the currently adopted *Local Area Transportation Review Guidelines* in keeping with the general guidelines included in the Adopted Annual Growth Policy. Within Potomac, only development contributing to congestion at the following intersections is subject to LATR:
  - a) Montrose Road at Seven Locks Road
  - b) Democracy Boulevard at Seven Locks Road
  - c) Tuckerman Lane at Seven Locks Road
  - d) Democracy Boulevard at Westlake Drive
  - e) Westlake Drive at Westlake Terrace
  - f) Westlake Drive at Tuckerman Lane
  - g) Bradley Boulevard at Seven Locks Road.

## Summary Guide to Annual Growth Policy Approval Procedures

This section contains a 3-page matrix that is a quick reference to the eight different AGP procedures under which a subdivision may be approved. Following the matrix is a short summary of each procedure.

This section is helpful for determining whether a particular AGP procedure applies in a certain policy area or to a certain type of development. This section also includes information on how to calculate the Development Approval Payment and the Expedited Development Approval Excise Tax.

# Summary Guide to Annual Growth Policy Approval Procedures

## AGP Approval Procedure

## Conditions and Terms of Procedure

## Policy Areas Where Procedure Can Be Used (as of 7/15/99)

### Using Available Capacity

A subdivision may be approved under this provision when there is enough publicly-funded development capacity in the policy area to support the proposed project. For Policy Area Transportation Review, this means that there are at least as many jobs or housing units in net remaining capacity as the project requires. For Local Area Transportation Review, this means that traffic generated by projects generating 50 trips or more won't cause nearby intersections to exceed their level of service standard.

*\*De Minimis Rule:* Small-scale development that generates up to five peak hour trips may receive subdivision approval without being subject to either Policy Area Transportation Review or Local Area Transportation Review. Development that generates at least five but less than 50 peak hour trips is subject to Policy Area Transportation Review but not Local Area Transportation Review. Development projects that generate 50 or more peak hour trips are subject to both PATR and LATR.

### Housing

### Jobs

Bethesda CBD  
Bethesda/Chevy Chase  
Cloverly  
Derwood  
Friendship Heights  
Germantown East  
Germantown West  
Germantown Town Ctr  
Glenmont  
Grosvenor  
Kensington/Wheaton  
North Bethesda  
Olney  
Potomac  
R&D Village  
Shady Grove  
Silver Spring CBD  
Silver Spring/Tak. Park  
Twinbrook  
Wheaton CBD  
White Flint

Aspen Hill  
Bethesda CBD  
Bethesda/Chevy Chase  
Cloverly  
Derwood  
Friendship Heights  
Germantown East  
Germantown West  
Germantown Town Ctr  
Glenmont  
Grosvenor  
Kensington/Wheaton  
North Bethesda  
North Potomac  
Olney  
Potomac  
Shady Grove  
Silver Spring CBD  
Silver Spring/Tak. Park  
Twinbrook  
Wheaton CBD  
White Flint

### Special Ceiling Allocation for Affordable Housing

This procedure permits the Planning Board to approve preliminary plans in policy areas that are otherwise in moratorium for new housing if the developer builds an affordable housing development. There is a specific definition of an "affordable housing development," and there are limitations on the number of housing units that can be approved under the Special Ceiling (300 per year and 500 total).

Policy areas that have been deeply in moratorium for an extended period of time are not eligible for the Special Ceiling Allocation.

All but Fairland/White Oak (before applying, check that number of approvals in area doesn't exceed maximum of 500 units per policy area)

Not Applicable

# Summary Guide to Annual Growth Policy Approval Procedures

## AGP Approval Procedure

## Conditions and Terms of Procedure

## Policy Areas Where Procedure Can Be Used (as of 7/15/99)

### Housing

### Jobs

#### Full-Cost Developer Participation

This procedure permits the Planning Board to approve subdivisions in moratorium areas when the applicant agrees to construct the public facilities needed to maintain adequacy. All of the current moratoria are due to inadequate transportation facilities, so this procedure is only used to address transportation capacity problems. Developers' public facilities project(s) must add as much capacity to the transportation system as the proposed development will need. If the developer, for a period of 10 years, provides a traffic mitigation program, the program must reduce the number of peak-hour, peak-direction automobile trips as would be generated by the proposed development.

All but Silver Spring  
CBD

All but Silver Spring  
CBD

#### Development District Participation

This procedure permits the Planning Board to approve preliminary plans in moratorium areas when the applicant(s) and the County agree to fund the needed public facilities through a development district. Requires Council approval.

All

All

#### Alternative Review Procedure for Limited Residential Development

This procedure permits the Planning Board to approve preliminary plans for residential projects in policy areas that are otherwise in moratorium for new housing subdivisions. Up to 300 units per year per policy area may be approved, and no more than 100 units per subdivision per year.

A project is relieved of both Policy Area and Local Area Transportation Review obligations. In exchange, the developer pays a "development approval payment" to the County at building permit. This provision is scheduled to sunset on October 31, 2001.

All but Fairland/White  
Oak, Montgomery  
Village/Airpark and  
Aspen Hill.

Not Applicable

#### Alternative Review Procedure for Metro Station Policy Areas

This procedure permits developers of projects within certain Metro Station Policy Areas to be relieved of their Local Area Transportation Review obligations. In exchange, the developer agrees to: make his best effort to meet mode share goals set by the Planning Board; participate in a transportation management organization (including paying ongoing contributions), and pay a development approval payment.

This procedure is not scheduled to sunset.

Bethesda CBD  
Grosvenor  
White Flint  
Twinbrook

Bethesda CBD  
Grosvenor  
White Flint  
Twinbrook

# Summary Guide to Annual Growth Policy Approval Procedures

## AGP Approval Procedure

## Conditions and Terms of Procedure

## Policy Areas Where Procedure Can Be Used (as of 7/15/99)

### Housing

### Jobs

#### Alternative Review Procedure for Expedited Non-Residential Development Approval ("Pay- and-Go")

This procedure permits the Planning Board to approve non-residential subdivisions irrespective of transportation congestion conditions, if the developer of the subdivision agrees to pay the Expedited Development Approval Excise Tax (EDEAT). Ten percent of the EDEAT is paid prior to subdivision approval; the balance is paid at building permit. A subdivision approved under this procedure must go to record plat within two years of approval and must receive all building permits within two years of record plat. Previously-approved subdivisions may re-apply using this procedure, but are subject to any new regulations which went into effect since the previous approval.

From mid-February through mid-May, 1998, residential subdivisions were permitted to use this procedure, but are not now. Beginning May 18, 1999, the procedure is not available to non-residential subdivisions larger than 100,000 s.f. or to any non-residential development in Fairland/White Oak.

This procedure is scheduled to sunset on October 31, 2001.

None, unless developer applied prior to May 12, 1998

All non-residential subdivisions except: (1) those larger than 100,000 sq. ft; (2) those located in Fairland/White Oak; or (3) if the proposed subdivision would violate transportation staging provisions in applicable master or sector plans. Areas with staging elements in their master/sector plans include Bethesda CBD, Clarksburg, Glenmont, and North Bethesda.

#### Transferable Development Capacity

This procedure permits subdivisions for which there is insufficient development capacity (staging ceiling) to purchase that capacity from existing buildings, demolished buildings, or approved-but-unbuilt subdivisions.

Capacity transfers from existing buildings are not complete until the building is demolished. Owners of demolished buildings may transfer the capacity associated with the building up to five years after demolition, but they must receive a determination of the amount of capacity associated the building prior to demolition.

Silver Spring CBD

Silver Spring CBD

## 1. Using Available Capacity

The Planning Board may approve a preliminary plan of subdivision when there is enough publicly-funded development capacity in the policy area to support the proposed project. For Policy Area Transportation Review (staging ceilings), this means that there are at least as many jobs or housing units in net remaining capacity as the project requires. For Local Area Transportation Review (intersections) this means that traffic generated by projects generating 50 trips or more won't cause nearby intersections to exceed their level of service standard.

**Policy Area Transportation Review:** Staging Ceilings are the maximum amount of development that can be approved in a policy area given the transportation level of service in that area. They are set for each policy area annually (see table 1A).

**Local Area Transportation Review:** The intersection congestion standard varies by policy area: the County allows more congestion in areas with higher levels of transportation service (see table 1B).

**De Minimis Rule:** Small-scale development that generates up to five peak hour trips may receive subdivision approval without being subject to either Policy Area Transportation Review or Local Area Transportation Review. Development that generates at least five but less than 50 peak hour trips is subject to Policy Area Transportation Review but not Local Area

**Table 1A: Policy Areas Where There is Available Capacity (as of July 15, 1999)**

Housing	Jobs
Bethesda CBD	Aspen Hill
Bethesda/Chevy Chase	Bethesda CBD
Cloverly	Bethesda/Chevy Chase
Derwood	Cloverly
Friendship Heights	Derwood
Germantown East	Friendship Heights
Germantown West	Germantown East
Germantown Town Ctr	Germantown West
Glenmont	Germantown Town Ctr
Grosvenor	Glenmont
Kensington/Wheaton	Grosvenor
North Bethesda	Kensington/Wheaton
Olney	North Bethesda
Potomac	North Potomac
R&D Village	Olney
Shady Grove	Potomac
Silver Spring CBD	Shady Grove
Silver Spring/Takoma Pk	Silver Spring CBD
Twinbrook	Silver Spring/Takoma Pk
Wheaton CBD	Twinbrook
White Flint	Wheaton CBD
	White Flint

Transportation Review. Development projects that generate 50 or more peak hour trips are subject to both PATR and LATR.

### Relevant Text In AGP or Adequate Public Facilities Ordinance Regarding Policy Area Transportation Review

**APFO:** *In which the APFO states that the Planning Board must not approve development for which public facilities are not adequate and delegates to the Annual Growth Policy the role of defining tests and standards of adequacy:* "A preliminary plan of subdivision must not be approved unless the Planning Board determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Planning Board, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision. Public facilities and services to be examined will include roads and public transportation facilities, sewerage and water service, schools, police stations, firehouses, and health clinics...The Planning Board must consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities and services in accordance with guidelines and limitations established by the County Council in its Annual Growth Policy or established by the resolution of the District Council after public hearing."

**AGP:** *After defining staging ceilings and the pipeline of approved development:* "When the subdivision pipeline has risen to meet the ceiling, the Planning Board must not approve any more subdivisions in that policy area except under certain special circumstances..."

**Table 1B: Intersection Standards by Policy Area**

Standard*	Policy Area
1450	Rural Areas
1500	Clarksburg, Damascus, Germantown East, West and Town Center, and Montgomery Village/Airpark
1525	Cloverly, Derwood, North Potomac, Olney, Potomac, and R&D Village
1550	Aspen Hill and Fairland/White Oak
1600	North Bethesda
1650	Bethesda/Chevy Chase, Kensington/Wheaton, and Silver Spring/Takoma Park
1800	Bethesda CBD, Friendship Heights, Glenmont, Grosvenor, Shady Grove, Silver Spring CBD, Twinbrook and White Flint

\*Critical lane movements

### 3. Full-Cost Developer Participation

Full-cost developer participation permits the Planning Board to approve preliminary plans in moratorium areas when the applicant agrees to construct the public facilities needed to maintain adequacy as defined by the AGP. All of the current moratoria are due to inadequate transportation facilities, and developers may only use this procedure to address transportation capacity problems.

The procedure requires that the developer's public facilities project(s) add as much capacity to the transportation system as the proposed development will need. If the developer, for a period of 10 years, provides a traffic mitigation program, the program must reduce the number of peak-hour, peak-direction automobile trips as would be generated by the proposed development.

#### Relevant Text In AGP Regarding Full-Cost Developer Participation

"If an applicant agrees to pay for the full cost of all the additional necessary public facilities, and the relevant administering agency has agreed, the Planning Board may approve subdivision plans whose public facility needs exceed the net remaining capacity under the adopted staging ceiling.

"Where the applicant commits to provide the full cost of a transit, para-transit or ridesharing program, such application may be deemed to have passed the staging ceiling test, insofar as transportation is concerned, if the Board finds, after reviewing recommendations of the County Executive, that the program will reduce the number of peak-hour, peak-direction automobile trips by as many trips as would be generated by the proposed development. After a preliminary subdivision plan has been approved on this basis, later applications may be credited for reduced trips generated by the new proposal."

**Policy Areas Where Full-Cost Developer Participation is Available:** All but Silver Spring CBD (see the last paragraph in the adjacent box). Otherwise, there are no restrictions on where in the County full-cost developer participation may be used.

#### What is "Staging Ceiling Flexibility?"

There are three types of "staging ceiling flexibility:" full-cost developer participation, development district participation, and development capacity transfers. The AGP defines staging ceiling flexibility this way:

*"Staging Ceiling Flexibility allows the Planning Board, after considering the recommendation of the County Executive, to approve a preliminary plan application which exceeds the staging ceiling. In allowing the staging ceiling to be exceeded, caution should be exercised to assure that the average level of service for the relevant policy area is not adversely affected. Except as otherwise expressly stated in this subsection, the same level of service criteria already established in the Annual Growth Policy must be used in evaluating an application under these ceiling flexibility provisions.*

*"In general, each approval above the staging ceiling must be conditioned upon the planned and scheduled construction by either the applicant and/or the government of some public facility project or other appropriate capacity measure (such as the private operation of a transit program) which, if added to the approved CIP or CTP programmed facilities, will add capacity or its equivalent to the existing facility system and result in no lessening of the area-wide level of service.*

*"In general, the capacity addition must be scheduled for completion at the same time or before the proposed development is to be completed. The application must also be approved under Local Area Transportation Review standards. The nature, design and scale of the additional project or program must receive prior approval from the relevant governmental agencies responsible for constructing or maintaining such facilities or programs. The recommendation of the Executive also must be evaluated carefully.*

*"Both the subdivision plan and the necessary additional facilities must be in accordance with an adopted master plan or other relevant policy statement; the design of the facilities must be subject to mandatory referral to the Planning Board; and the applicant and the relevant public agency must execute an appropriate public works agreement prior to record plat approval.*

*"The phrase "additional transportation facilities" means transportation facilities other than those on which the policy area staging ceilings of the current Annual Growth Policy are based."*

*"Additional staging ceiling flexibility is not available in the Silver Spring CBD because traffic mitigation measures of the Transportation Management District have been relied upon to establish the ceilings of the Silver Spring CBD policy area."*

## 2. Special Ceiling Allocation for Affordable Housing

The Special Ceiling Allocation for Affordable Housing permits the Planning Board to approve preliminary plans of residential subdivisions in policy areas that are otherwise in moratorium if the developer builds affordable housing. The rationale is that growth management policies such as the AGP may have a negative impact on the supply of affordable housing in the County.

### Relevant Provisions In AGP Regarding the Special Ceiling Allocation for Affordable Housing

In addition to the definition of affordable housing (see box), the AGP has the following guidelines for administering the Special Ceiling Allocation for Affordable Housing:

The Planning Board may approve in each fiscal year not more than: 125 units for projects owned or controlled by HOC; 300 units for privately owned affordable housing developments; or an aggregate of 300 units in a policy area with both HOC-owned and controlled developments and privately owned affordable housing developments.

Subject to the housing unit cap under paragraph (2), approvals under this special ceiling allocation may resume if the deficit in remaining capacity in the policy area has been reduced under the number of housing units listed in the table above, but only to the extent that transportation capacity has increased (as calculated from the housing unit point listed in the table above) due to a programmed transportation improvement that is either under construction or funded for construction in the fiscal year for which the special ceiling allocation is requested from the Planning Board.

If the subdivision moratorium is eliminated in a policy area subject to this paragraph and is later reinstated, the calculation of the number of cumulative housing units approved under this special ceiling allocation starts at zero.

### What is "Affordable" Housing?

*From the AGP:*

*"An affordable housing development is a housing development which is either owned by the Housing Opportunities Commission or by a partnership in which HOC is the general partner; or a privately-owned housing development in which 20% of the units are occupied by households at or below 50% of the area median income, adjusted for family size, or 40% of the units are occupied by households at or below 60% of the area median income, adjusted for family size. Such a development must be certified by HOC as affordable housing, and the owner of that development must agree with HOC to maintain the occupancy requirements for at least 15 years. These requirements include the provision of any MPDU's."*

Any development approved under this subsection must meet all zoning requirements and all other subdivision requirements, including standards for local area transportation review.

**Policy Areas Where the Special Ceiling Allocation for Affordable Housing is Available:** All areas except Fairland/White Oak. Table 3a reviews how the AGP determines whether a policy area is eligible for the Special Ceiling Allocation. There are two policy areas -- Aspen Hill and Montgomery Village/Airpark -- where the length and depth of the housing moratorium is "too great" according to chart 3a, but these areas are still eligible because less than 500 units have been approved under the procedure in these areas.

**Table 3a:** Two conditions must be met before a policy area becomes *ineligible* for the Special Ceiling Allocation for Affordable Housing. One is that more than 500 units have been approved under this procedure in the policy area. Policy areas where this is true are then subject to the "length and depth" rule defined by the table below.

**The Length and Depth of a Policy Area's Moratorium is Too Great When the Net Remaining Capacity is Worse Than...**

Moratorium Length:	4 years	5 years	6 years	7 years	8 years	9+ years
Depth of Deficit	-2000	-1800	-1600	-1400	-1200	-1000

**How to read this chart:** More than 500 units have been approved in Fairland/White Oak under the Special Ceiling Allocation, so it is currently the only policy area to which this table applies. The table shows that for FY97 and for policy areas that have been in moratorium for 9+ years, the maximum allowable depth of a policy area's moratorium is -1,200. Fairland/White Oak has been in moratorium for housing for 13 years and its net remaining capacity is -4,002. This information is available from Table 3 in draft AGPs. Thus, Fairland/White Oak is ineligible for the Special Ceiling Allocation for Affordable Housing.

## 4. Development District Participation

Development districts are a funding mechanism for providing needed infrastructure in areas of the County where substantial development is expected or encouraged.

Development district participation is voluntary and development districts need not be contiguous.

Creation of a development district requires County Council approval at two points: the Council must first approve a proposed district in concept. The district is then reviewed for public facilities adequacy by the Planning Board, Montgomery County Public Schools, the Washington Suburban Sanitary Commission and the County Executive. The Planning Board and County Executive may also propose that the development district fund additional facilities beyond those needed to satisfy APFO requirements. The County Council must then give final approval to the district.

Development district participation is different from Full-Cost Developer Participation in two main ways: the district may finance infrastructure through bonds, and the public sector can participate in providing the infrastructure needed by the district

### Relevant Text In AGP Regarding Development District Participation

The guidelines related to development districts take up three pages in the Annual Growth Policy. This is because the AGP lays out a step-by-step process for determining the APFO requirements of development districts. The text is summarized here.

Once the County Council approves a development district in concept, one or more property owners in the proposed district may submit to the Planning Board an application for provisional adequate public facilities approval for the entire district. In addition to explaining how each development located in the district will comply with all applicable zoning and subdivision requirements, this application must: show the number and type of housing units and square footage and type of the non-residential space to be developed, as well as a schedule of proposed buildout in four-year increments; identify any infrastructure improvements necessary to satisfy the adequate public facilities requirements for development districts; and estimate the cost to provide these improvements.

The Planning Board then reviews the proposed district as if it is a single subdivision for compliance with the Adequate Public Facilities Ordinance. In general, the tests for development district public facilities adequacy follow the same guidelines as for all other development, except that districts are reviewed specifically for adequacy of schools, police, fire and health facilities in addition to the usual reviews for transporta-

tion, and water and sewer. If buildout of a development district is staged, public facilities adequacy must be maintained throughout the life of the plan.

The County Executive and Planning Board may also recommend to the County Council additional facilities to be provided by the development district or by the public sector to support development within the district. These facilities may include, but are not limited to: libraries, health centers, local parks, social services, greenways, and major recreation facilities.

As provided in Chapter 14 of the Montgomery County Code, once the development district is created and the financing of all required infrastructure is arranged, the development in the district is considered to have satisfied all APF requirements, any additional requirements that apply to development districts in the AGP, and any other requirement to provide infrastructure which the County adopts within 12 years after the district is created.

### Policy Areas Where the Development District

**Participation is Available:** Neither the development district enabling legislation nor the AGP limit the use of development districts to specific areas of the County, except to say that they should be areas where substantial growth is encouraged or expected.

## 5. Alternative Review Procedure for Limited Residential Development

This procedure permits the Planning Board to approve preliminary plans for residential projects in policy areas that are otherwise in moratorium for new housing subdivisions. Up to 300 units per year per policy area may be approved, but no more than 100 units per subdivision per year.

A project approved under this procedure is relieved of both Policy Area and Local Area Transportation Review obligations. In exchange, the developer pays a "development approval payment" to the County at building permit (see next page for rates).

### Relevant Text In AGP Regarding the Alternative Review Procedure for Limited Residential Development

"Beginning November 1, 1997 until October 31, 2001, an applicant for a residential subdivision need not take any action under Policy Area Transportation Review or Local Area Transportation Review (LATR) if the applicant pays to the County a development approval payment (DAP), to be established by County law, before the building permit is issued. However, the applicant must include in its application for preliminary plan approval all information that would be necessary if the requirements for Local Area Transportation Review applied.

"The use of this procedure is subject to the following conditions: (1) the procedure must not be used in any part of the County which is located in a rural area as defined in this Resolution; (2) the procedure must not be used in any policy area which is exempt from the Special Ceiling Allocation for Affordable Housing or would be exempt from that Allocation if the Planning Board had approved at least 500 housing units in that policy area under that Allocation; (3) however, the procedure may be used in the Fairland/White Oak Policy Area to approve a planned unit development that includes a golf course or other major amenity that is developed on a public/private partnership basis.

"Under this procedure, the Board must not approve: more than 300 units in any policy area in each fiscal year and more than 100 units at any one location under common ownership and control, as defined in the Planning Board's LATR Guidelines. However, the Board may approve a development with more than 100 units at a single location if not more than 100 units will be constructed in a single fiscal year."

"Any applicant for a subdivision approval under this procedure must agree, as part of the application, that it will build the

same number of Moderately Priced Dwelling Units (MPDU's) among the first 100 units that it would be required to construct at that location if the subdivision consisted only of 100 units, or a pro rata lower number of MPDU's if the subdivision will include fewer than 100 units.

"Any applicant for a subdivision approval under this procedure must agree, as part of the application, that it will not begin to construct any residential unit approved in the application later than 3 years after the plat is recorded or the site plan is approved (whichever occurs later).

"The Planning Board must report in the recommended AGP Ceiling Element each year on the number of housing units approved and built under this procedure and should specify for inclusion in the Capital Improvements Program any transportation improvements needed to support those units."

**Policy Areas Where the Alternative Review Procedure for Limited Residential Development is Available:** This procedure is not available in Aspen Hill, Montgomery Village/Airpark or Fairland/White Oak because of the length and depth of their respective housing moratoria. There is an exception, however: outlots created as a result of the old *de minimis* rule can be approved in Aspen Hill and Fairland/White Oak upon payment of the Development Approval Payment.

## 6. Alternative Review Procedure for Metro Station Policy Areas

The County has taken steps to encourage development to locate in areas where its investment in transportation infrastructure has been greatest; namely, AGP Metro station policy areas. In FY94, when the County created three new Metro station policy areas (Grosvenor, White Flint, and Twinbrook), it also raised the amount of intersection congestion allowed in these areas to 1800 CLV; and it created the Alternative Review Procedure for Metro Station Policy Areas.

The Alternative Review Procedure for Metro Station Policy Areas is currently available in Grosvenor, White Flint, Twinbrook, and Bethesda CBD. It is not yet available in the Wheaton CBD, Shady Grove, Friendship Heights, or Glenmont Metro Station Policy Areas because a transportation management organization (TMO) serving the area must be created first.

The County's policy of providing the same Total Transportation Level of Service in all policy areas means that the combination of auto level of service, transit level of ser-

vice, and pedestrian level of service is roughly equivalent in all policy areas. In a policy area with a heavy traffic congestion, the County can increase the total transportation level of service by improving the roadway network, improving the transit and pedestrian network, or a combination of both.

In the more densely developed Metro Station Policy Areas, intersection improvements, particularly widenings, may not be feasible because of cost or logistics and may not be desirable from a pedestrian point of view. The Alternative Review Procedure for Metro Station Policy Areas increases the County's flexibility in providing needed local area improvements to increase the total transportation level of service. At the same time, it encourages development in the areas of the County best served by transit and pedestrian facilities by streamlining the process for passing the LATR test.

### **Relevant Text In AGP Regarding the Alternative Review Procedure for Metro Station Policy Areas**

"An applicant for a subdivision which will be built completely within the Bethesda CBD, Wheaton CBD, Grosvenor, White Flint, or Twinbrook Metro station policy areas need not submit any application or take any action under 2. Local Area Transportation Review (LATR) if the applicant agrees in a contract with the Planning Board and the County Department of Public Works and Transportation to: (1) make its best efforts to meet mode share goals established by the Planning Board as a condition of approving that subdivision; (2) participate in programs operated by, and take actions specified by, a transportation management organization (TMO) to be established by County law for that policy area (or a group of policy areas including that policy area) in order to meet the mode share goals established under paragraph (1); (3) pay an ongoing annual contribution or tax to fund the TMO's operating expenses, including minor capital items such as busses, as established by County law; and (4) pay a development approval payment (DAP), to be established by County law, over a multi-year period starting when the building permit is issued and indexed to reflect inflation in construction costs.

"The Planning Board must conduct a comprehensive Local Area Transportation Review for each policy area in which it approves a subdivision under this procedure and should specify for inclusion in the Capital Improvements Program any transportation improvements needed to support that subdivision."

### **Calculating the Development Approval Payment**

Type of Development	DAP (per square ft)
<b>Non-Residential Buildings</b>	
<i>Owned by non-profit organization for direct provision of charitable services</i>	\$1.00
<i>Industrial, warehouse, R&amp;D, and non-profit offices</i>	\$2.40
<i>Any other non-residential building</i>	\$4.00
<b>Residential Buildings</b>	
<i>Multi-family or addition</i>	\$3.00
<i>Single-family or add'n (incl townhomes)</i>	\$3.75
<i>Minimum payment for multi-family (per unit)</i>	\$1,200
<i>Minimum payment for single-family (per unit)</i>	\$1,500

The DAP is calculated by multiplying the above rates by the building's gross floor area (GFA). The first 1,200 square feet are exempt. GFA also does not include:

- ♦ unfinished basement or attic area with a clear height of less than 7'6".
- ♦ interior amenity space required to obtain approval of a site plan.
- ♦ area occupied by an atrium or other multi-storied space other than the first floor of the space.
- ♦ mechanical spaces and parking garages.
- ♦ in single-family residential buildings only, the GFA does not include 50% of any finished or unfinished basement or attic area with a clear height of less than 7'6".

In Metro Station Policy Areas, the DAP may be paid in 6 annual installments. The DAP is set by County Council bill 31-93 which modified the County Code (Chapter 8, Article V, Sections 8-37 through 8-42).

### **Policy Areas Where the Alternative Review Procedure for Metro Station Policy Areas is Available:**

This procedure is available in the Bethesda CBD, Grosvenor, White Flint, and Twinbrook policy areas. The procedure will be available in the Wheaton CBD, Shady Grove, Friendship Heights, and Glenmont Policy Areas as soon as a transportation management organization is established in these areas.

## 7. Alternative Review Procedure for Expedited Non-Residential Development Approval ("Pay-and-Go")

The "Pay-and-Go" provisions of the Annual Growth Policy (AGP) were approved by the County Council in November 1997 as part of the biennial policy review of the AGP. As initially adopted, "pay-and-go" permitted developers of residential and non-residential projects to avoid the AGP's transportation requirements by paying a tax. In May of 1998, the County Council amended the procedure so that only non-residential subdivisions are now eligible to use pay-and-go. Residential subdivisions which had already applied to use pay-and-go prior to noon on May 12, 1998 are permitted to use the pay-and-go procedure. As of May 18, 1999, the procedure is not available to non-residential subdivisions in excess of 100,000 square feet or to non-residential development of any size in Fairland/White Oak.

In the Annual Growth Policy, pay-and-go is called the Alternative Review Procedure for Expedited Non-Residential Development Approval. The tax paid on subdivisions approved under this procedure is called the Expedited Development Approval Excise Tax.

Previously-approved subdivisions that wish to be re-approved under Pay-and-Go must comply with any new requirements that have come into effect since the plan was originally approved (e.g., forest conservation, etc.).

Pay-and-Go is optional; that is, a developer has the option of not using Pay-and-Go if it is not to his benefit. Pay-and-Go may not be to a developer's benefit if: (1) there is sufficient staging ceiling in the policy area for the project to pass Policy Area Transportation Review (PATR), (2) the project is not large enough to be subject to Local Area Transportation Review (LATR) or would not cause nearby intersections to exceed the level of service standard for those intersections, (3) the cost of transportation improvement conditions required under PATR or LATR is less than the Pay-and-Go tax, (4) the developer does not want his project to be subject to subdivision regulations enacted since the project was approved, and/or (5) the developer does not want to be subject to the "use it or lose it" provisions included in Pay-and-Go. As adopted, Pay-and-Go will be in effect for four years. Projects approved under Pay-and-Go will have 2 years from date of approval to record a plat and 2 years from record plat to proceed to construction.

### Calculating the Expedited Development Approval Excise Tax

Non-Residential Buildings	EDEAT (per square ft)
<b>In Moratorium Areas</b>	
<i>Owned by non-profit organization for direct provision of charitable services</i>	\$0.50
<i>Non-profit organization offices</i>	\$1.00
<i>Industrial, warehouse, and R&amp;D</i>	\$3.00
<i>Any other non-residential building</i>	\$3.50
<b>In Non-Moratorium Areas</b>	
<i>Owned by non-profit organization for direct provision of charitable services</i>	\$0.25
<i>Non-profit organization offices</i>	\$0.50
<i>Industrial, warehouse, R&amp;D, and non-profit offices</i>	\$2.00
<i>Any other non-residential building</i>	\$2.50

The EDEAT is calculated by multiplying the above rates by the building's gross floor area (GFA). The first 1,200 square feet are exempt. GFA also does not include:

- unfinished basement or attic area with a clear height of less than 7'6".
- interior amenity space required to obtain approval of a site plan.
- area occupied by an atrium or other multi-storied space other than the first floor of the space.
- mechanical spaces and parking garages.
- in single-family residential buildings only, the GFA does not include 50% of any finished or unfinished basement or attic area with a clear height of less than 7'6".

The EDEAT is set by County Council bill 41-97 which modified the County Code (Chapter 52, Taxation, Sections 52-57 through 52-61).

### Policy Areas Where the Alternative Review Procedure for Expedited Non-Residential Development Approval is Available:

This procedure is available in all policy areas except Fairland/White Oak. However, individual subdivisions may not be able to use Pay-and-Go if that subdivision is larger than 100,000 square feet or would violate transportation staging provisions in adopted master plans or sector plans. Areas that have staging elements in their master or sector plans include Bethesda CBD, Clarksburg, Glenmont, and North Bethesda.

## 8. Development Capacity Transferability (Silver Spring CBD)

This procedure permits subdivisions for which there is insufficient development capacity (staging ceiling) to purchase that capacity from existing buildings, demolished buildings, or approved-but-unbuilt subdivisions.

Capacity transfers of jobs-to-jobs or housing-to-housing are made on a one-for-one basis. Transfers of jobs capacity to housing capacity or vice versa are made at a ratio determined by the Planning Board at the time of the transfer.

Capacity transfers from existing buildings are not complete until the building is demolished. Owners of demolished buildings may transfer the capacity associated with the building up to five years after demolition, but they must receive a determination of the amount of capacity associated the building prior to demolition.

### Relevant Text In AGP Regarding Development Capacity Transferability (Excerpts)

“The Planning Board may approve the voluntary transfer of staging ceiling capacity from an existing vacant building or a subdivision in the pipeline of approved development to a subdivision in the queue of pending development if both subdivisions are located completely within the Silver Spring Central Business District policy area. Job capacity may be transferred to jobs and housing capacity may be transferred to housing on a one-for-one ratio, and jobs-to-housing or housing-to-jobs capacity may be transferred at a ratio set in each case by the Planning Board.

“The original holder of the development capacity may transfer all or part of the development capacity to another subdivision. If only a portion of the development capacity is transferred, the balance of the development capacity remains with the original holder until the original subdivision’s development approval expires. For partially completed subdivisions in the pipeline of approved development, only that portion of the development capacity on which construction has not begun may be transferred.

“The developer of a subdivision in the queue of pending development may provide some or all of the development capacity needed for the subdivision by receiving transferred development capacity.

“If development capacity is transferred from an approved but not completed subdivision, the portion of that subdivision

associated with the transferred development capacity is removed from the pipeline of approved development and building permits issued for buildings in the subdivision associated with the transferred capacity should be canceled. The original subdivision, or portion of that subdivision from which development capacity was transferred, may be resubmitted to the Planning Board for adequate public facilities approval and if the Board finds that adequate public facilities will be available the Board may reinstate the subdivision or portion of the subdivision into the pipeline of approved development.

“The expiration date of development capacity transferred from a subdivision in the pipeline of approved development to a subdivision in the queue of pending development does not change as a result of the transfer. Development capacity transferred from an existing building expires when the receiving subdivision’s preliminary plan expires.

“The owner of an existing building may transfer the development capacity associated with the building under this section. The owner must apply for and receive from the Planning Board certification of the development capacity associated with the building. Any transfer of development capacity from an existing building is not complete until the building is demolished. However, the owner of an existing non-residential building who wishes to convert that building to residential use may convert the jobs capacity associated with that building to residential capacity at a ratio set by the Planning Board.

The owner of an existing building may demolish the building before transferring its development capacity. The owner of a demolished building may transfer the development capacity within five years after the building is demolished. If the development capacity is transferred from a demolished building, the owner may later apply to the Planning Board for approval of adequate public facilities for a new development on the site. If the Board finds that adequate public facilities will be available for that development, the Board must ass the proposed development to the pipeline of approved development.

“Development capacity may be transferred from a subdivision which was in the pipeline of approved development before May 19, 1998. Development capacity acquired under the Special Ceiling Allocation for Affordable Housing or under any Alternative Review Procedure must not be transferred under this section.”

**Policy Areas Where the Alternative Review Procedure for Expedited Development Approval is Available:** This procedure is available in the Silver Spring CBD only.

## Montgomery County's Adequate Public Facilities Ordinance

Montgomery County's Adequate Public Facilities Ordinance is actually contained in the Subdivision Ordinance; that is, Chapter 50-35(k) - Subdivision of Land of the Montgomery County Code. The APFO was first adopted in 1973; this most recent version was adopted on April 22, 1986.



(k) **Adequate Public Facilities.** A preliminary plan of subdivision must not be approved unless the Planning Board determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Planning Board, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision. Public facilities and services to be examined for adequacy will include roads and public transportation facilities, sewerage and water service, schools, police stations, firehouses, and health clinics.

(1) Periodically the District Council will establish by resolution, after public hearing, guidelines for the determination of the adequacy of public facilities and services. An Annual Growth Policy approved by the County Council may serve this purpose if it contains those guidelines. To provide the basis for the guidelines, the Planning Board and the County Executive must provide information and recommendations to the Council as follows:

a. The Planning Board must prepare an analysis of current growth and the amount of additional growth that can be accommodated by future public facilities and services. The Planning Board must also recommend any changes in preliminary plan approval criteria it finds appropriate in the light of its experience in administering these regulations.

b. The County Executive must comment on the analyses and recommendations of the Planning Board and must recommend criteria for the determination of the adequacy of public facilities as the Executive deems appropriate.

(2) The applicant for a preliminary plan of subdivision must, at the request of the Planning Board, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities and services by possible uses of said subdivision.

(3) The Planning Board must submit the preliminary plan of subdivision to the County Executive in addition to the agencies specified in Section 50-35(a).

(4) The Planning Board must consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities and services in accordance with the guidelines and limitations established by the County Council in its Annual Growth Policy or established by resolution of the District Council after public hearing.

(5) Until such time as the Annual Growth Policy or resolution of the District Council provides guidelines and limitations for the determination of the adequacy of public facilities and services, public facilities may be determined to be adequate to service a tract of land or an affected area when the following conditions are found to exist:

a. The tract or area will be adequately served by roads and public transportation facilities. Said area or tract to be subdivided shall be deemed adequately served by roads and public transportation facilities if, after taking into account traffic

generated by all approved subdivisions and the subject subdivision, the following conditions will be satisfied:

1. For the geographic area in which the proposed subdivision is located, an acceptable average peak-hour level of service will result from:

- i. Existing publicly maintained all-weather roads;
- ii. Additional roads programmed in the current adopted Capital Improvements Program of the County or the Maryland Consolidated Transportation Program, for which 100 percent of the expenditures for construction are estimated to occur in the first four years of the program; and
- iii. Available or programmed public bus, rail, or other public or private form of mass transportation.

2. For intersections or links significantly affected by traffic from the subject subdivision, an acceptable peak hour level of service will result from:

- i. Existing publicly maintained all-weather roads;
- ii. Additional roads identified on the Approved Road Program published by the County Executive; and
- iii. Available or programmed public bus, rail, or other form of mass transportation.

3. For the purposes of subsection 2. above, the County Executive shall publish periodically an Approved Road Program which shall list all roads programmed in the current adopted Capital Improvements Program and the Maryland Consolidated Transportation Program for which:

- i. in the case of the Capital Improvements Program, 100 percent of the funds have been appropriated for construction costs; and
- ii. the County Executive has determined that construction will begin within two years of the effective date of the Approved Road Program.

4. For the purposes of subsection 1. and 3. above, roads required under Section 302 of the Charter to be authorized by law are not considered programmed until they are finally approved in accordance with Section 20-1 of this Code. (# 86-4, Ord. # 10-71.)

5. Any parcel zoned for light industrial use (I-1) which has been in reservation for public use pursuant to action of the Montgomery County Planning Board at any time since June 1, 1981, and which has not changed in size or shape since

June 1, 1958, will not be subject to the above subsection (a) if a preliminary plan was submitted prior to June 1, 1981. (# 85-4, Ord. # 10-60.)

b. The tract or area has adequate sewerage and water service.

1. For a subdivision dependent upon public sewerage and water systems:

i. Said area or tract to be subdivided shall be deemed to have adequate sewerage and water service if located within an area in which water and sewer service is presently available, under construction, or designated by the County Council for extension of water and sewer service within the first two years of a current approved Ten-Year Water and Sewerage Plan.

ii. If said area or tract to be subdivided is not situated within an area designated for service within the first two years of a current approved Ten-Year Water and Sewerage Plan, but is within the last eight years of such plan, it shall be deemed to have adequate water and sewerage service if the applicant provides community sewerage and/or water systems as set forth in Section 387C of Article 43 of the Annotated Code of Maryland provided the installation of such facilities shall have been approved by the State Department of Health and Mental Hygiene, the Washington Suburban Sanitary Commission, the County Department of Environmental Protection, and the Montgomery County Council.

2. For a subdivision dependent upon the use of septic systems: Said area or tract to be subdivided shall be deemed to have adequate sewerage service if development with the use of septic systems is in accordance with Section 50-27, or regulations published by the Maryland State Department of Health and Mental Hygiene pursuant to Article 43, Annotated Code of Maryland, whichever imposes the greater or more stringent requirement.

3. In its determination of the adequacy of sewerage or water service, the Planning Board shall consider the recommendation of the Washington Suburban Sanitary Commission, the capacity of trunk lines and sewerage treatment facilities and any other information presented.

c. The tract or area is so situated as not to involve danger or injury to health, safety or general welfare. Such danger or injury may be deemed not to exist:

1. When physical facilities, such as police stations, firehouses and health clinics, in the service area for the preliminary subdivision plan are currently adequate or are scheduled in an adopted Capital Improvements Program in accordance with the applicable area master plan or General Plan to provide adequate and timely service to the subdivision; and

2. If adequate public utility services will be available to serve the proposed subdivision; and

3. When, in the case of schools, the capacity and service areas are found to be adequate according to a methodology set forth in a resolution adopted by the District Council after public hearing; provided, however, that until such resolution by the District Council takes effect, the Planning Board shall determine the adequacy of school facilities after considering the recommendations of the Superintendent of Schools. (85-4, Ord. # 10-60.)

d. Existing or proposed street access within the tract or area is adequate. Street access may be deemed adequate if the streets:

1. Are adequate to serve or accommodate emergency vehicles,
2. Will permit the installation of public utilities and other public services,
3. Are not detrimental and would not result in the inability to develop adjacent lands in conformity with sound planning practices, and
4. Will not cause existing street patterns to be fragmented.

(6) For a proposed subdivision located in a transportation management district designated under Chapter 42A, Article II, if the Planning Board determines, under criteria and standards adopted by the County Council, that additional transportation facilities or traffic alleviation measures are necessary to ensure that public transportation facilities will be adequate to serve the proposed subdivision, the subdivision plan may not be approved unless approval is subject to the execution of a traffic mitigation agreement. (# 87-1, Ord. # 11-18.)

(7) Exemptions. Places of worship and residences for staff, parish halls, and additions to schools associated with places of worship, are not subject to the provisions of section 50-35(k), adequate public facilities. (# 85-4, Ord. # 10-60; # 86- 4, Ord. # 10-71.)

(l) Relation to Master Plan. In determining the acceptability of the preliminary plan submitted under the provisions of this chapter, the Planning Board must consider the applicable master plan. A preliminary plan must substantially conform to the applicable master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan recommendation no longer appropriate. (# 87-1, Ord. # 11-28.)

## Annual Growth Policy Legislation

This legislation establishes the Annual Growth Policy and provides the rules for its administration and amendment. First adopted in 1986 as Bill No. 11-86, this legislation was revised and re-adopted in 1993 as Bill 29-93 by the Montgomery County Council.



Emergency Bill No.: 29-93  
Concerning: Annual Growth Policy  
Draft No. & Date: 3 October 5, 1993  
Introduced: August 3, 1993  
Enacted: October 5, 1993  
Executive: October 14, 1993  
Effective: October 14, 1993  
Sunset Date: None  
Ch. - 38, Laws of Mont. Co. 1993

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

---

BY: Council President

---

AN EMERGENCY ACT to:

- (1) revise the schedule for the preparation and adoption of the Annual Growth Policy; and
- (2) clarify the process by which the Annual Growth Policy may be adopted and amended.

By amending    Montgomery County Code  
                  Chapter 33A, Planning Procedures  
                  Article II, Annual Growth Policy  
                  Section 33A-15

The County Council for Montgomery County, Maryland, approves the following act:

Sec. 1.        Section 33A-15 is amended as follows:

33A-15.       Annual Growth Policy.

(a) Purpose.

- (1) The purpose of this article is to establish a process by which the County Council can give policy guidance to agencies of government and the public on matters concerning:
  - (A) land use development;

(B) growth management; and

(C) related environmental, economic, and social issues.

- (2) The process will be established through the adoption by the County Council of an annual growth policy, which is intended to be an instrument that facilitates and coordinates the use of the powers of government to limit or encourage growth and development in a manner that best enhances the general health, welfare, and safety of the residents of the county.

(b) Simplified description.

- (1) The annual growth policy has two components: a ceiling element and a policy element.
- (2) The ceiling element must be adopted annually by the County Council. It consists of:
- (A) growth ceilings based on transportation capacity for each policy area in the County, for both residential and employment land uses, which must be consistent with relevant portions of state, county, and municipal capital improvement programs;
  - (B) the determination whether adequate capacity will exist for public schools; and
  - (C) a list of any roads, transit, or school facilities that should not be counted in calculating growth ceilings.
- (3) The policy element must be adopted every two years by the County Council. It consists of other policy guidelines for the Planning Board, and other agencies as appropriate, for their administration of laws and regulations which affect growth and development.

(c) Duties of the Montgomery County Planning Board.

- (1) Each year, the Planning Board must produce a recommended ceiling element.
- (A) By November 7, the Board must make available a staff draft ceiling element to the County Executive and other county agencies for their use in preparing recommended capital improvement programs for the next fiscal year.
  - (B) By May 1, the Board must:
    - (i) for each policy area, calculate the existing pipeline of approved development permits, including preliminary subdivision plans, sewer authorizations, record plats, and building permits.
    - (ii) for each policy area, recommend growth ceilings based upon transportation capacity, for both residential and employment land uses, consistent with the latest information in relevant portions of the upcoming county, state, and municipal capital improvement

programs.

- (iii) for each high school cluster, recommend whether public school capacity will be adequate to serve planned growth; and
  - (iv) list any roads, transit and school facilities that should not be counted in calculating growth ceilings.
- (2) Every two years, beginning in 1995, the Planning Board must produce a recommended policy element.
- (A) By May 1, the Planning Board must send to the County Council a staff draft policy element which includes:
- (i) a status report on the general land use conditions in the county, including the remaining growth capacity of zoned land, recent trends in real estate transactions, the level of service conditions of major public facilities and environmentally sensitive areas, and other relevant monitoring measures;
  - (ii) a forecast of the most probable trends in population, households, and employment for the next ten years, including key factors that may affect the trends;
  - (iii) a recommended set of policy guidelines for the Planning Board, and other agencies as appropriate, with respect to their administration of laws and regulations which affect growth a development; and
  - (iv) any other information or recommendations relevant to growth policy, or requested by the County Council in the course of adopting the annual growth policy or by a later resolution.
- (B) By June 15, the Planning Board must produce a recommended policy element which reflects the Planning Board's views on the items in subsection (2)(A)(iii) and (2)(A)(iv).
- (3) The Planning Board must promptly make available to the County Executive, other agencies, and the public copies of the staff draft and recommended ceiling and policy elements.
- (d) Duties of the County Executive.
- (1) By May 15 of each year, the County Executive must send to the County Council a recommended ceiling element, including:
- (A) growth ceilings based on transportation capacity, for both residential and employment land uses, consistent with the latest information in relevant portions of the county, state, and municipal capital improvement programs;

**Emergency Bill 29-93**

- (B) recommendations regarding whether public school capacity will be adequate to serve planned development; and
  - (C) a list of any roads, transit, and other school facilities that should not be counted in calculating growth ceilings.
- (2) Every two years, beginning in 1995, the County Executive must send to the County Council by August 1 any revisions to the recommended policy element of the Planning Board in the form of specific additions or deletions.
  - (3) The County Executive must promptly make available to the Planning Board, other agencies, and the public copies of the Executive's recommendations.
  - (4) The County Executive must assist the Planning Board to compile its status report for the recommended annual growth policy by making available monitoring data which is routinely collected by executive branch departments.
  - (5) The County Executive should use the information in the Planning Board's staff's draft ceiling element as a reference document in preparing the recommended capital improvement program for the next fiscal year, particularly with respect to the linkage between future capital construction schedules and policy area capacity ceilings.
- (e) Duties of the Montgomery County Board of Education.
- (1) Each year, the Board of Education must:
    - (A) by February 15 send the County Council any comments on the County Executive's recommended capital improvement program as it pertains to the annual growth policy; and
    - (B) by June 1 send the County Council any comments on the recommended ceiling elements submitted by the Planning Board and the County Executive, including any revisions in the form of specific additions or deletions.
  - (2) Every two years, beginning in 1995, the Board of Education must send to the County Council by September 1 any comments on the recommended policy element submitted by the Planning Board and the Executive, including any proposed revisions in the form of specific additions or deletions.
  - (3) The Board of Education must promptly make available to the Planning Board, the County Executive, and the public copies of these comments and revisions.
  - (4) During the year, the Board of Education must assist the Planning Board to compile its status report for the draft annual growth policy by making available monitoring data which is routinely collected by staff of the Board of Education.

**(f) Duties of the Washington Suburban Sanitary Commission.**

- (1) Each year, the Washington Suburban Sanitary Commission must:**
  - (A) by February 15 send the County Council any comments on the County Executive's recommended capital improvement program as it pertains to the annual growth policy; and**
  - (B) by June 1 send the County Council any comments on the recommended ceiling elements submitted by the Planning Board and the County Executive, including any revisions in the form of specific additions or deletions.**
- (2) Every two years, beginning in 1995, the Washington Suburban Sanitary Commission must send to the County Council by September 1 any comments on the recommended policy element submitted by the Planning Board and the Executive, including any proposed revisions in the form of specific additions or deletions.**
- (3) The Washington Suburban Sanitary Commission must promptly make available to the Planning Board, the County Executive, and the public copies of these comments and revisions.**
- (4) During the year, the Washington Suburban Sanitary Commission must assist the Planning Board to compile its status report for the draft annual growth policy by making available monitoring data which is routinely collected by staff of the Washington Suburban Sanitary Commission.**

**(g) Duties of the County Council.**

- (1) After receipt of either a ceiling element or a policy element, the recommendations of the County Executive, and the other agency comments, the County Council must hold a public hearing on the draft, recommendations and comments.**
- (2) No later than July 15 of each year, the County Council must adopt a ceiling element to be effective until the following July 15. If the County Council does not adopt a new ceiling element, the ceiling element adopted most recently remains in effect.**
- (3) Every two years, beginning in 1995, the County Council must adopt by November 1 a policy element to be effective until November 1 two years later. If the County Council does not adopt a new policy element, the policy element most recently adopted remains in effect.**

**(h) Amending the annual growth policy.**

- (1) The County Council, the County Executive, or the Planning Board may initiate an amendment to either the ceiling element or the policy element.**
- (2) If the County Executive initiates an amendment:**

**Emergency Bill 29-93**

- (A) the County Executive must send it to the County Council, the Planning Board, and other county agencies and make copies available to the public;
  - (B) the Planning Board must send any comments on the proposed amendment to the County Council and the other agencies within 45 days after receiving the amendment, and must make copies of any comments available to the public; and
  - (C) the Council may either amend the ceiling element or the policy element after receiving the Planning Board's comments and holding a public hearing.
- (3) If the Planning Board initiates an amendment:
- (A) the Planning Board must send it to the County Council, the County Executive, and other agencies, and make copies available to the public;
  - (B) the County Executive must send any comments on the proposed amendment to the County Council and other agencies within 45 days after receiving the amendment, and must make copies of any comments available; and
  - (C) the County Council may amend either the ceiling element or the policy element after receiving the County Executive's comments and holding a public hearing.
- (4) If the County Council initiates an amendment:
- (A) the County Council must send it to the County Executive, the Planning Board, and other agencies, and make copies available to the public;
  - (B) the County Executive and the Planning Board must send any comments on the proposed amendment to the County Council and other agencies within 45 days after receiving the amendment, and must make copies of any comments available to the public; and
  - (C) the County Council may amend either the ceiling element or the policy element after a public hearing.
- (5) If it finds that an emergency exists, the County Council may hold the public hearing and adopt an amendment before receiving comments under subparagraphs (2)(B), (3)(B), or (4)(B).

**Sec.2. Emergency Effective Date.**

The Council declares that an emergency exists and that this legislation is needed for the immediate protection of the public health and safety. The act takes effect on the date on which it becomes law.

## Staff Contacts

### Montgomery County Council Staff

Glenn Orlin, *Deputy Director*

Michael Faden, *Senior Legislative Attorney*

### Montgomery County Executive Staff

Eilizabeth Davison, *Director, Department of Housing and Community Affairs*

Scott Reilly, *Program Manager, Planning Implementation Section of the Office of the County Executive*

Albert J. Genetti, *Director, Department of Public Works and Transportation*

John J. Clark, *Director, Office of Project Development, Department of Public Works and Transportation*

Jean Chait, *Senior Planning Specialist*

### Montgomery County Public Schools

Dr. Jerry D. Weast, *Superintendent*

Bruce Crispell, *Senior Planner*

### Montgomery County Department of Park and Planning

Charles R. Loehr, *Director*

Joe Davis, *Acting Chief of Development Review*

Jeff Zyontz, *Acting Chief of Countywide Planning*

Richard Hawthorne, *Chief of Transportation Planning*

Eric Graye, *Transportation Coordinator*

Ron Welke, *Transportation Planning Supervisor*

Karl Moritz, *Special Projects Manager*

Lonnie Rorie, *Senior Research Planner*

Ed Axler, *Senior Transportation Planner*

Charles Coleman, *Technical Staff*

For more information about the Annual Growth Policy, please contact Karl Moritz at 301-495-1312.



0000000658

0.00

AGP FY2000 ADOPTED

The Montgomery County Planning Board  
Maryland-National Capital Park & Planning Commission  
8787 Georgia Avenue, Silver Spring, Maryland 20910  
301-495-4700